

Workforce Management

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Use of Curriculum Design

Taken together, the curriculum designs in this series provide an overarching plan for the education of court leaders; this overarching plan constitutes a curriculum. Individually, each curriculum design and associated information provide faculty with resources and guidance for developing courses for court leaders.

The designs are based on the NACM Core®. Each of the curriculum designs, organized by thirteen competencies, may be used either in its entirety or in segments to meet the needs of the individual circumstance or situation, the particular audience, and time constraints, among many other contextual factors.

Each curriculum design includes a series of learning objectives and educational content to support those learning objectives. Associated information for each curriculum design includes: (1) faculty resources, (2) participant activities, and (3) a bibliography. Each faculty resource and participant activity includes information explaining its use. Also included in each design is a section entitled “Special Notes to Faculty,” which provides important information to assist faculty in effectively preparing to design and deliver a course, and a section entitled “Target Audience,” which provides some guidance on which audiences are most appropriate for the curriculum design.

Participant Activities

Participant activities have been designed to measure whether the learning objectives have been achieved. Participant activities include many types of group and individual interaction. Information on participant activities includes how to use, direct, and manage each activity. Instructions may be modified for the audience and setting, but the highest goal is to integrate each activity into the learning process and the content of the course. Faculty should incorporate additional activities to ensure that

participants remain actively engaged throughout the course. Additional activities may include asking participants questions about the content, engaging them in sharing their experiences with the content, encouraging them to ask questions, and more.

Faculty Resources

Faculty Resources provide written information and/or graphics that support certain content and may also be used as handouts for associated topics in the **Educational Content**. Faculty Resources are a combination of resources referenced within the Educational Content and recreations of those images embedded in the Educational Content as sample images that could be used in PowerPoint® slides. They may be used in any course, but their applicability and use need to be determined by faculty, based on the topics, length of the course, audience, and other factors. Faculty Resources often include examples of documentation and other data that are time-based. Faculty members are encouraged to update time-based material as well as use material that is specific to the presentation and/or audience. As with participant activities, faculty are encouraged to provide additional materials based on the needs of the participants.

Bibliography

While a bibliography may be viewed as optional by faculty, they are often important adult learning tools, foster reflection, and offer sources to follow up research and study.

Needs Assessment

A needs assessment gathers information about the participants’ proficiency on the topic of the session. Without a needs assessment, you may provide content participants cannot or will not use, or already know, or that fails to satisfy their expectations.

Assessing needs enables you to choose and deliver content with much greater accuracy. Conducting a needs assessment before your presentation may include a written survey or focus group discussion; and/or at the beginning of your presentation, you may conduct an informal question and answer exercise or a short pre-test.

Using surveys or focus groups in advance of a course is preferred as it provides you the opportunity to adapt and adjust your presentation to your audience in advance of the actual course. However, it is also advisable to use some time at the beginning of your presentation to seek information about your audience.

Whether you are able to conduct a needs assessment prior to the day of the session or not, the goal is to determine the essential knowledge, skills, and abilities the court leaders who will be attending the session must have to perform their duties competently. Two key areas to explore are as follows:

- What level of knowledge, skills, and abilities do the participants currently have about the topic?
- What gaps in their knowledge would they like to close?

Questions enable the faculty member to make necessary adjustments to meet learning needs. If you find out that participants are much more knowledgeable about your topic than you had thought, you can adapt your presentation to a higher-level discussion. If you find that they are less knowledgeable, you can adapt your presentation to be more basic.

NACM Core[®] Reference

Competency: Workforce Management

To carry out their fundamental purposes and responsibilities, the court must have the human talent to achieve the court's mission and vision. The court leader must work to secure, manage, educate, and motivate court staff. To do this, the court leader should have specific, technical expertise and knowledge of relevant laws, legal rulings and policies relating to day-to-day operations along with a host of human resource related skills and capabilities.

The court leader, who effectively manages and motivates the workforce, should possess the skills and capabilities necessary for job analysis and classification; performance management; workforce planning; professional staff development; development and updating of compensation and benefit plans; risk management; employee relations; and organizational change management.

Learning Objectives

The following learning objectives are designed for a comprehensive course on workforce management.

As a result of this education, participants will be able to:

1. Identify the components of workforce management and describe how they relate to the purposes and responsibilities of courts;
2. Describe the various methods of job analysis and use those methods to create appropriate job descriptions and

recruit qualified applicants for court positions;

3. Determine appropriate methods to find, recruit, and select applicants to satisfy the current and future needs of the court and community;
4. Create a performance management appraisal system for court employees that produces a high performance work culture;
5. Develop a strategic workforce plan to address staffing needs for the court;
6. Assess the education and training needs of the court to improve staff development and performance;
7. Assess and recommend appropriate compensation and benefit structures;
8. Evaluate potential areas of risk to court personnel and establish and implement policies to prevent or mitigate those risks;
9. Analyze a typical employee relations problem and determine a strategy for resolution; and
10. Identify a needed business process or organizational change and create a plan for successful change management.

may wish to teach sections of the curriculum design over several courses.

Examples have been provided to assist you with explaining the concepts contained in the design. If it is helpful, you may wish to use your own examples and/or use examples from the jurisdiction(s) in which you are teaching.

This is a topic that lends itself to litigation. You may wish to include a statement in your teaching materials indicating that the information you are providing is not an opinion rendered by you or NACM for any specific employee issue, but rather is general information about the topic. Further, you also may wish to remind the participants that the tools contained in this curriculum design are examples, but may not be the best or most appropriate tool for their jurisdiction.

Target Audience

This curriculum is suitable for court leaders, lead staff, and leadership judges who have responsibilities related to the management, development, and motivation of the court workforce at all jurisdictional levels and types of courts.

Special Notes to Faculty

This curriculum design includes information on workforce management. Because of its comprehensive nature, faculty for this design

Educational Content

Section 1 – The Principle Case for Workforce Management

Learning Objective

As a result of this section, participants will be able to:

1. Identify the components of workforce management and describe how they relate to the purposes and responsibilities of courts.

1.1 Purposes and Responsibilities of Courts

Effective workforce management leads to effectively carrying out the purposes of courts. As organizations, courts must take responsibility for human resource activities, which includes recruitment, professional development, and performance management. Human resource practices strengthen the court's delivery of services to the public, as well as create the positive morale needed to facilitate a high performance environment.

Pursuant to the authority granted in the United States Constitution, the constitutions of the states and territories, and applicable laws, the primary responsibility of the judicial branch is to provide an impartial forum for the resolution of disputes. This ensures the rule of law and protection of individual rights.¹ This fundamental responsibility has been expanded over time to include other areas of importance, many of which are dependent upon the court leader effectively carrying out human resource functions related to the management, development, and motivation of the court workforce. The added purposes related to proper workforce management consist of

- Ensuring public perceptions of justice in individual cases,
- Protecting individuals against the arbitrary use of governmental power, and
- Providing for a formal record of legal status.

These added purposes not only involve actions that are performed by judges to ensure these purposes and responsibilities are carried out, but also by court staff who engage with court participants during the course of their involvement with the court system. Having a court staff that engages in ethical behavior, meets performance expectations, and follows court policies and procedures, contributes in a critical manner toward ensuring the court's purposes and responsibilities are carried out.

Courts exist to do justice, to guarantee liberty, to enhance social order, to resolve disputes, to maintain rule of law, to provide for equal protection, and to ensure due process of law. One could say that workforce management involves all of these same principles in the human resource activities that are carried out on a daily basis.

¹ NACM Core®, Purposes and Responsibilities

Workforce Management involves operating in a strategic manner. All of the human resource activities of a court must strategically operate to further the court’s mission, vision, and core values and further the goals of the court.

1.2 Mission of the Court

Court leaders must develop employees’ skills and experiences to achieve the court’s mission. As courts in general have a purpose and responsibility, each particular court has a mission – the reason it exists. To further the particular mission of the court, proper workforce management is crucial. The purpose, responsibility, and general mission of the court are to protect and safeguard individual rights and liberties. However, many courts have a more specific mission or reason for existing such as juvenile or family jurisdiction courts or other specialty or federal jurisdiction courts, like bankruptcy courts. The workforce of those particular courts must be made up of staff that are not only ethical and professional and understand the conduct expected of courts in general, but also have the knowledge, skills, abilities, and other attributes (KSAOs) that are necessary for handling juvenile, family, or specialty cases, as needed by that particular court.

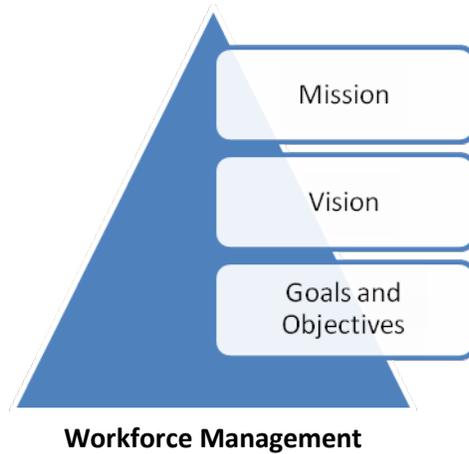
For example, recruiting, training, and motivating a workforce in a juvenile or family jurisdiction court may require different workforce management strategies than that which is required in other courts. Having a workforce that knows and understands the reason for certain processes that are required by the laws and regulations specific to juveniles or family law situations in the court is a necessary requirement that workforce management must ensure exists in that particular court in order to carry out the court’s mission.

1.3 Vision, Goals, and Objectives of the Court

Workforce management involves aligning the human resource functions with the court’s strategic vision. A workforce that is managed well will understand the direction of the court. A court leader must assess the following:

1. Is the court’s vision clearly identified?
2. Is the vision related to the court’s overall strategic plan and mission?
3. Is the court’s vision clearly communicated to and accepted by court staff?
4. Is the court’s vision a picture of the future that staff would be motivated by and seek to accomplish in the work they do?

While the mission and vision of the court are usually short, broad statements that are far-reaching in nature, the goals and objectives of the court are smaller in scale, “bite-sized pieces” that create the road map to achieving the mission and vision. Workforce management aids the court in furthering its vision and obtaining its objectives through effective performance management, workforce planning, staff development, and change management. If these functions are effectively managed, a court will be able to meet its goals and objectives, follow its vision, and further its mission.



Activity One -- *Workforce Management and the Court's Vision and Mission*: Use the example provided or provide an example of a court's mission statement and ask the participants to develop a vision and specific goals and objectives that further the mission, and explain how that furthers the purposes and responsibilities of courts.

Section 2 – Job Analysis and Classification

Learning Objective

As a result of this section, participants will be able to:

2. Describe the various methods of job analysis and use those methods to create appropriate job descriptions and recruit qualified applicants for court positions.

2.1 The Foundational Component

Workforce management is highly dependent upon the foundational component of job analysis on which all other human resource activities are built. Understanding how jobs are performed is the cornerstone to effective human resource activities that are carried out by the court leader charged with ensuring that the right people are in the right jobs, performing the right work, at the right time.

Job analysis is the process of studying jobs to identify and determine in detail the particular job duties and requirements, as well as the relative importance of these duties for a given job. It requires the job analyst to determine what the employee actually does on the job, the required qualifications needed to perform those duties, and the context in which the work is being performed. It can be conducted for existing jobs or anticipated jobs.

Performing a job analysis involves analyzing, synthesizing, and reporting information about job positions that is gathered in a variety of ways. Proper job analysis and classification of positions in a court system allow court leaders to determine what KSAOs are needed to perform the work required for effective court operations. Once this determination is made, court leaders are in a better position to recruit and select the talent needed for each position in the workforce.

2.2 Methods of Data Collection in Job Analysis

A variety of methods exists for collecting data when performing job analyses of court positions and the method(s) chosen can depend on a number of factors, including

1. Time allocated to the process,
2. Current workforce abilities and desire to participate in the process, and
3. Expertise of the individuals involved in the process.

If the court leader does not have the necessary experience or employ a qualified human resource manager able to lead and perform the task, the court can contract with an outside firm or individual in the human resource field with experience in conducting job analysis.

A. Interview

This can be conducted with an individual or in groups and can involve the incumbent, the supervisor, former job holders, or other subject matter experts (SMEs) who have a particular expertise with this particular job or the job analysis process. Time can be saved by interviewing multiple job holders of a particular classification in one session and using a standardized interview tool to ensure all necessary and relevant information is obtained. It can be time consuming but can generate a great deal of information; however, the skill level of the interviewer will contribute to the value of the information obtained.

B. Questionnaire

This is a commonly used and economical method to analyze jobs and uses a paper or electronic survey tool that is structured and categorized, sometimes in the form of a checklist. It is given to those who have knowledge about the job, such as the job incumbent and the incumbent's supervisor, and can contain management input areas. This method allows for the collection of a large number of responses in a small amount of time. One downside is the possibility of missing certain areas of the job that may be important to the assessment process and the inability to seek clarification or further input if not part of the established process. Types of job survey instruments include the Position Analysis Questionnaire (PAQ) and the Managerial Position Description Questionnaire (MPDQ) which are available from several sources online. If a consulting firm is used to conduct job analyses, the company may have its own copyrighted questionnaires or will develop a custom questionnaire for the court.

C. Observation

This method requires the job analyst to visit the job site and directly observe the job incumbent performing the job duties and tasks. Often several different workers are observed due to different methods that could be used or tasks being performed in different ways. The job analyst takes notes or records the workers in action, if permitted. This method is used primarily for manual jobs and repetitive tasks and not useful for non-repetitive jobs or creative jobs. Examples of court positions this would work well for are data entry clerks, minute clerks, cashiers, or front counter personnel who receive filings from the public.

D. Work Sample

This method involves collecting and analyzing small segments of the total job that represents the typical duties performed, such as reports or documents prepared by the incumbent. This method is good for repetitive and manual jobs. It is important to select samples that are representative of the typical and critical components of the job. Court clerk positions that prepare specific and routine forms, or fiscal positions that prepare routine revenue reports, are examples of court positions for which work samples can be looked at during job analysis.

E. Employee Diary/Log

This method involves the employee keeping a log of their job duties and daily activities for a period of time. They should be recording the task and the time required to perform each task. This method is good for jobs that are non-repetitive or creative. Things to consider are the burden to employees in maintaining a log of their tasks and duties and the accuracy of the information. Employees asked to do this must be highly motivated and dedicated to accurately reporting and reflecting the duties and responsibilities of the position. Examples of court positions where this method can be used would be managers for a particular division or court program, administrative project managers, or other top level administrative positions.

F. Records Collection

Obtaining relevant information from existing records of the human resources personnel

are often quite helpful, forming a starting point from which to build and analyze data collected from the other methods. This involves obtaining records such as organizational charts, existing job descriptions, procedure manuals, training manuals, payroll records, and statistical or work productivity records.

Using multiple methods of data collection in the job analysis process is recommended. The time allotted for collection must be factored in as well as considerations of the strengths and weaknesses of each method.

2.3 Information Collected from Job Analysis

The following information is generally collected when performing a job analysis:

- Data about what the job incumbent actually does
- People/Jobs with whom the incumbent interacts and/or supervises
- Tasks or job functions performed (Essential and Non-essential tasks)
- Scope of responsibility – supervising others or supervision by others
- Tools, equipment, or software or used
- Requisite work space and location

Activity Two (a) – *Job Analysis* will assist participants in identifying the best approaches to job analysis for various court positions in preparation for the second portion of the activity when the participants will link the job analysis with creating job descriptions for court positions.

2.4 Uses of Job Analysis

A proper job analysis and classification of positions sets the stage for several other components of workforce management by providing the court leader with the information needed to make sound decisions about hiring, managing performance, training, and other job related decisions that are often the subject of litigation.

A. Recruitment and Selection

Determining what the job entails and what characteristics are required to perform the duties help court leaders decide what types of individuals they need to recruit and hire for those positions. This helps the court leader or supervisor develop interview questions and be able to evaluate candidates applying for positions. For recruitment the court leader should advertise that working for the court may offer exciting career opportunities and meaningful work by serving one's community.

B. Compensation

A proper job analysis will help determine the appropriate compensation, based on the required skill level, educational level, and degree of responsibility needed that are revealed from a thorough job analysis of individual positions. Many specific jobs can be grouped together and classified into a specific job class for pay purposes. Also, a proper determination can be made on classifying positions as exempt or non-exempt for purposes of overtime and other pay issues prescribed by legislation, such as the Fair Labor Standards Act (FLSA).

- C. Performance Appraisal
Job analysis can be used to determine specific performance standards. The employee's actual job performance can then be compared to the performance standards of that particular job.
- D. Training
The tasks and duties performed in a job will tell you what KSAOs are needed for the job, and therefore the training needed for that job.
- E. Creating and Revising Job Descriptions
A job analysis can reveal tasks and responsibilities that form the essential tasks that should be included in the job description. Reviewing positions through periodic job analysis can assist in developing or revising job descriptions, as needed.
- F. Equal Employment Opportunity (EEO) Compliance
Job analysis provides the employer with the knowledge of what the job entails which will enable the selection criteria to be related to the job performance, a necessary component of EEO compliance.

Activity Two (b) *Create a Job Description* will assist the participants with creating a job description.

Section 3 - Recruitment and Selection

Learning Objective

As a result of this section, participants will be able to:

3. Determine appropriate methods to find, recruit, and select applicants to satisfy the current and future needs of the court and community.

3.1 Finding Applicants

With the job analysis complete, the court leader can begin the process of finding qualified applicants. Recruitment avenues to be considered:

1. Labor market (Local? Regional? National?)
2. Career fairs
3. Social networks (LinkedIn, etc.)
4. Former employees
5. Referrals from current employees
6. Posting boards for professional associations and entities (NACM, NCSC)

Entry level positions may require a narrower range of recruitment avenues, as the KSAs necessary to perform such positions are not specialized. Positions that have increased decision making responsibilities or require technical expertise necessitate the court leader to consider a wider range of potential recruitment avenues. A senior court position in information technology, for example, is a specialized position that utilizing multiple recruitment avenues will increase the likelihood of finding qualified applicants.

Careful consideration should be given to determine if an internal or external recruitment is appropriate (or allowed). There are advantages and disadvantages in using each.

A key advantage to an internal recruitment is an expedient hiring process with a lower recruitment cost. In addition, internal recruitments foster career development, reduced attrition, greater employee engagement, and increased productivity. Internal candidates bring established relationships and professional contacts that may take the external candidate years to build. The internal candidate may, however, be lacking in formal training or specialized skills for higher level positions, thereby resulting in a longer period of time before the employee reaches optimal performance.

External candidates will bring new ideas, perspectives, and insight, which may encourage process improvements and move the organization forward. The external candidate may also serve to fill a current knowledge gap. Hiring externally does have the disadvantages of greater recruitment costs and a longer period of integrating the new employee into the existing work environment.

It is important that a well-crafted recruitment announcement be used to reach potential applicants. The announcement should be tied to the court's strategic goals, as well as a specific job analysis, position description, and essential job functions. Key elements include:

1. Official job title and a brief description of duties
2. Description of the court and job environment

3. Type of employment (at will, unionized, etc.)
4. Salary and benefits
5. Minimum and desired qualifications
6. Disclosure of need for accommodations (ADA, etc.)
7. Application requirements (standard form vs. résumé; education, work and salary history, criminal history, references, KSAs or screening/supplemental questionnaires etc.), including application deadline
8. Disclaimers (employment eligibility documentation requirement, testing requirements, falsification of information, etc.)

Court leaders should also carefully consider where to post the announcement. Options include newspapers, online job recruitment websites, social media, flyers, colleges/universities/law schools/paralegal schools/court reporter schools/other educational institutions, and community groups. Many courts now utilize an online application process; sometimes a single system in a given jurisdiction is used by both courts and other governmental offices.

3.2 Reviewing the Application Pool

To ensure a fair process, certain decisions should be made before starting to review the applicant pool. First, decide who should participate in reviewing the applications at each stage of the process. For initial minimum qualifications screening, it is beneficial to have a human resources staff member perform this review to ensure consistency. There are also automated screening solutions that can review and match resumes with key phrases; this option can be considered when a large number of applications are expected. Next, decide who will perform a substantive review of the application materials of the candidates who meet the minimum qualifications. Last, decide how this review will occur. This review should involve at least one or more members of the selection panel.

The applicant pool review ultimately results in determining which candidates will get further consideration (or not). What methodology is used to rank the candidates should be decided at the beginning of the review process. For example, courts may employ a standard scoring rubric for all applicants based on the knowledge, skills, and abilities specified in the announcement to determine which candidates have the preferred qualifications for the position. Before using any scoring rubric, reviewers should be trained on how to score and what scores are appropriate for the KSAs (“score normalizing”). Whether the applicant review process involves a formal scoring rubric or a more informal ranking process, documentation of the review (preservation of scoring sheets, notes, and ranking lists) is important (see sec. 3.8 below).

3.3 Testing Candidates

Consideration should be given to administering tests to applicants as part of the applicant review or interview process. Care should be taken to only use tests that have been validated as being relevant to the requirements of the position and avoid bias. For example, a candidate who will not be expected to use a spreadsheet program should not be tested on whether the candidate can use a spreadsheet program.

Several commercial testing solutions are available that can evaluate candidates on aptitude, skills (e.g., typing, desktop applications), or personality. While courts may opt to design their own tests, these evaluations should be limited to position-specific tests (e.g., writing evaluation, computer

repair). Courts should be cautious in using personality tests as some research has shown them to often be biased and not relevant to job success. Except when required for background check investigations, polygraph or other integrity-type tests should be avoided and may not be permitted. Testing may be performed as part of the initial application process, after initial candidate screening, and as part of the interview. The testing scores, including minimally acceptable scores, should be factored into candidate ranking and documented.

3.4 Interviewing Applicants

Interviewing applicants requires a valid list of questions that are relevant to the KSAs of the posted position and meet legal requirements. Questions should reflect the qualifications listed on the recruitment announcement. Keep these tips in mind when drafting questions:

- Open-ended questions should be used to start of the interview to break the ice and provide a general opportunity to learn about the candidate. Interviewers may need to ask specific follow-up questions to clarify information.
- Using real-life scenario questions will give the court manager insight to the candidates' thought processes, judgment, decision making, and interpersonal skills.
- Structured interviews that use standard questions for each interview ensure that candidates are asked the same set of questions and rated on the same factors. Standardized questions can assist in minimizing personal bias during interviews.

Interviews should be conducted in a private setting such as an office or a conference room. The chosen area should be free from clutter and be a comfortable, neutral atmosphere. The court leader should ensure there are no disruptions or unnecessary distractions during the interview.

Based on the position that the court leader is recruiting for, consideration should be given for conducting the interview remotely through a video conference if the candidate is located out of the area, or via telephone. This is especially helpful for positions requiring a specific skillset, such as an IT position. Using all available options will increase the pool of qualified candidates and the options the court leader will have for hiring an employee that meets the needs of the position.

Consideration should also be given to using multiple screening levels. Court leaders will often rely on the Human Resources Department for the initial screening for minimum qualifications as a good first step to winnow down the pool of candidates. Subsequent interviews should be conducted including an oral review panel and a selection interview. The oral review panel should consist of a combination of supervisory level positions and subject matter experts, and be tasked with rating the candidate for experience, communication skills, and relevant KSAs. Ranking the candidates at the oral review panel interview will narrow the focus for the hiring authority and will ensure only the most qualified will be considered during the selection interview. The court leaders participating in the selection interview may choose to conduct the interview with one or more interviewers and ultimately make the selection of the candidate that will be hired for the position.

The court leader should use the interview to “sell” the job and the organization to the candidate, integrating the mission and vision into the process. There may be other organizations that the candidate is considering and this is a good time to promote the value of accepting a position with the court.

For both legal and professional reasons, it is a good idea to document the interviewing process. Both questions and answers should be retained in the HR department for future reference.

3.5 Evaluating Applicants

Similar to evaluating the applicant pool (see section 3.2 above), each person interviewed needs to be further evaluated and ranked. Organize and analyze the information immediately after the interview to determine the most qualified applicant. Decide in advance what methodology will be used to rank candidates, ensuring that bias is avoided. Whether a numeric scoring system is used or not, the value assigned to each candidate that is reflective of the demonstrated ability to successfully fulfill the requirements of the position is essential. In the ranking of the candidates the evaluator must be consistent and able to defend the reasoning for the assigned ranking. The ranking is important in the event the first-choice applicant does not end up filling the position (e.g., is unable/unwilling to accept the position or is otherwise deemed unacceptable after a background investigation is completed). Additionally, courts will often build a hiring list from the interviewed pool of applicants, typically the list will be valid for six months.

3.6 Background Investigations

Background investigations should be conducted for applicants who have been given the highest ranking. A Disclosure Authorization and Consent form should be signed by applicants to advise them that the information obtained through the background investigation may be used in making the hiring decision. It is critical to note that information received from the background investigation must not be used to discriminate against the applicant. The type of background check must be valid for the position under consideration, and compliance with legal requirements is essential. For additional information please see:

https://www.eeoc.gov/eeoc/publications/background_checks_employers.cfm.

Reference checks are an essential component of background checks. Checking references is an opportunity to learn about a candidate and to verify information from the résumé, cover letter and interview. It is important to use the same methodology and questions to gather accurate and impartial information/feedback. Document each reference check using a standardized form. The retention period of employment or personnel records is two years per the EEOC Recordkeeping Obligations for state and local governments.

Other types of background checks may or may not be appropriate, given the position:

- Criminal - the candidate will be required to have fingerprints taken and submitted for a criminal record check. For more information see: https://www.eeoc.gov/laws/guidance/qa_arrest_conviction.cfm.
- Financial - a financial background check or credit history check is meant to assess an applicant's financial responsibility. Although credit scores are not generally given, details such as highest credit extended, limits on different credit lines, average monthly payments, balances, past due amounts, and percentage of credit still available may be available. A financial background check may also yield information about civil suits or judgments, bankruptcies, accounts in collection, collection amounts, and tax liens. Care should be taken to only conduct financial background checks when the information obtained is validly related to the duties of the position.

- Medical history - under the Americans with Disabilities Act (ADA), an employer may ask disability-related questions and require medical examinations of an applicant only after the applicant has been given a conditional job offer.
- Other – other background checks include online social media inquiries; care should be taken to only conduct such checks if the information obtained is validly related to the duties of the position.
- Documentation is again very important.

Having the Human Resources Department staff, separate from anyone involved in the interviews, conduct all background checks should be considered to avoid bias and ensure consistency.

3.7 Selecting and Offering

In general, a designated hiring manager is vested with the authority to select a candidate for hire. It is good practice for the hiring manager to make the selection from a pool of candidates recommended by an interview panel/committee. Deviation may undermine the appearance of a fair and unbiased selection process and, in turn, jeopardize the likelihood of success in the event of a challenge by an unsuccessful candidate. The hiring manager may seek guidance from a superior with respect to the selection; however, that superior may be involved as a potential decision maker in a subsequent appeal. As a result, caution is recommended.

The setting of salaries will largely be dependent on the type of employee (union or at-will, for example) and the laws, rules, policies, procedures, and practices of each respective jurisdiction. The hiring manager may or may not have flexibility in negotiating and setting of a starting salary.

Union member salaries are subject to applicable collective bargaining agreements - salary scale, grading, pricing, allocation, step movement, etc. - which are subject to negotiation between the union and the employer and are generally set forth in an agreed-upon compensation schedule or a similar mechanism. Recruitment incentives and programs that may provide for flexibility in initial salary offers such as recruiting above the minimum salary scale, locality pay, stipends, etc. will also be subject to negotiation and agreement between the union and the employer. Consultation with human resources and labor relations personnel is highly recommended.

At-will employees are generally afforded greater flexibility with respect to salary ranges and levels. Considerations for assigning a salary range to a specific position could include:

- the level of responsibility of the position
- the significance/value of the position to the organization
- the educational requirements to accomplish the duties of the position
- relevant experience to accomplish the duties of the position
- past practice and parity among employees with similar duties
- the budget status of the court

Once the salary range has been set, parameters for flexibility in salary negotiation should be similarly finalized and adhered to uniformly and consistently by all hiring managers. Within those parameters, considerations during salary negotiations could include:

- the knowledge, skills, and abilities the applicant brings to the position,
- any specialized experience of the applicant that relates to the duties of the position, or
- the applicable job market and difficulty in filling that position.

3.8 Legal Considerations

As outlined in the above subsections, there are many legal considerations and requirements to be followed in recruiting and selecting employees. A prime area is protected classes of applicants, which are based on federal, state, and local laws. The federally² protected classes are:

- race
- color
- ethnicity/national origin
- ancestry
- sex/gender
- pregnancy
- religion, belief, and spirituality
- age (over 40)
- disability
- use of family and medical leave
- military status, national guard absence, uniformed service
- genetic information

Interview questions need to be based on the candidate's ability to do the job. Interview questions that directly or indirectly refer to a protected class or which may reveal a protected class may be illegal and need to be avoided. Selection based on a protected class or failure to hire an applicant because of their protected class may also be illegal. Any affirmative action goals need to be carefully managed.

The selection process must be objective, fair, well-documented, and supportable in the event of a challenge, appeal, or lawsuit. For example, applicants can file a charge with the EEOC (and/or the equivalent state agency) alleging failure to hire based on protected class or a union member may file a grievance under a collective bargaining agreement.

Documentation related to each stage of recruitment and selection must be retained for the appropriate time period under federal, state, and local laws, regulations, and policies. Extreme care should be taken to reducing bias in recruitment and selection. This starts with ensuring position descriptions and recruitment ads do not discriminate against any protected class. For example, recruitments should be designed and conducted to be gender-neutral. Avoid using words that may discourage applicants from applying. Adjectives such as “competitive” or “determined” have been shown to discourage women from applying for a position while words such as “collaborative” or “cooperative” may result in more women applying. (SHRM, “7 Practical Ways to Reduce Bias in Your Hiring Process” by Rebecca Knight, April 19, 2018).

Interview panels composed of diverse members may also help reduce implicit bias in the selection process. Review the application “blind” and focus on the applicant's specific qualifications not their

² Some jurisdictions may have additional categories based on state law. For example, the State of Hawai'i has the following additional protected classes: age (any age), marital status, gender identity or expression, sexual orientation, breastfeeding or expressing milk, arrest and court record, income assignment for child support, citizenship, credit history or credit report unless directly related to a bona fide occupational qualification, domestic or sexual violence status if the domestic or sexual violence survivor provides notice to the employer of such status or the employer has actual knowledge of such status.

name, address, perceived race/national origin, gender, or age. Indeed, research on hiring practices in symphony orchestras in the U.S. found blind auditions, which used a screen to conceal the identity of the candidate from the selection panel, increased the probability that a woman would be selected. (“Orchestrating Impartiality: the Impact of ‘Blind’ Auditions on Female Musicians” Goldin and Rouse, NBER Working Paper No. 5903).

Confidentiality in the interview and selection process is a critical legal requirement. Maintaining confidentiality protects sensitive information and increases participant confidence in the process. Applicants are often searching for a new position while currently employed and will likely expect that their job search be considered confidential. Be discreet regarding who has applied for a position and who is being interviewed and obtain permission from the applicant before contacting current or former employers for information or references. Jurisdictions may have interview panel members sign a confidentiality agreement. Such agreements inform panel members that the interview/selection process is confidential, and that they are not to discuss or disclose any information relating to the screening, interviews, or selection to unauthorized persons. (See, e.g., sample confidentiality agreements from University of Hawai‘i at Hilo and University of Wyoming.) Advance training of all staff involved in any stage of recruitment and selection on the wide range of legal requirements is recommended.

Section 4 – Performance Management

Learning Objective

As a result of this section, participants will be able to:

4. Create a performance management appraisal system for court employees that produce a high performance work culture.

4.1 The Driving Component

Performance management involves establishing and communicating specific performance expectations and goals for each employee and periodically meeting with and providing feedback to the employee about his or her performance as it relates to the expectations and goals laid out. Performance reviews usually are used to determine pay raises and other employment actions such as determining if further training is needed, promotion is merited, or whether termination should occur. The court leader must use this component to drive the workforce in the direction of fulfilling not only the requirements of the particular position, but the performance of the court, to reach its objectives and goals and ultimately fulfill its mission and purpose.

4.2 Reasons for Performance Management

Just as courts should measure their performance in areas such as case clearance rates or time to disposition to determine if they are meeting the expectations of the public and carrying out the purposes of courts, we must measure the performance of its human resources that are carrying out the duties in furtherance of its mission and goals. Courts rely heavily on their human resources to carry out the functions that are ultimately measured to determine their performance. Studies have consistently shown that organizations with an emphasis on measuring and improving performance significantly outperform those that do not focus on setting expectations and holding their employees accountable to meeting those expectations.

Although the performance management process can be time-consuming and require a great deal of effort, the return on investment is well worth the time and effort spent. More often than not organizations will see increased productivity, performance, morale, and quality of work, as well as a reduction in employee relations problems, both between co-workers and employees and supervisors.

Some key benefits and outcomes to the human resource elements of proper (effective) performance management are as follows:

- A. **Expectations Are Known**
Employees know what is expected of them and if proper feedback is given, know whether they are meeting those expectations or what they need to do to reach those expectations.
- B. **Increased Communication**
Employees and supervisors communicate frequently and address shortcomings before detrimental impact to operations occurs. Managers can prevent or stave off performance problems by establishing regular two-way conversations that foster a

complete understanding by all parties in the employee/employer relationship, and emphasizes how each employee's efforts contribute and measure up.

- C. Employee and Organizational Goals Are Aligned
When employees grow in their KSAOs, their contribution to the court grows and enhances the effectiveness of their performance and ultimate contribution to the goals of the court, as well as advancing the employees' career goals. Both the court and the employees benefit from this alignment of goals.
- D. Court Purposes Are Carried Out
The court retains employees who meet expectations and who understand their role in contributing to the mission, vision, and goals of the court and ultimately the purposes and responsibilities of the court are being met.

4.3 Common Types of Performance Management Systems

Performance management systems come in a variety of types, each with advantages and disadvantages. Court leaders must determine which type is most appropriate based on the size of their organization, skill and educational level of their workforce, expertise and ability of managers to carry out the specific type, and any legal or regulatory requirements that must be followed for the organization. A combination of performance management systems can also be used or tailored to the specific court workforce.

Each type of performance management system has limitations, and while the below are common, in recent years some of these have been criticized for skewing towards bias or other negative impacts. For example, see: https://www.shrm.org/hr-today/news/hr-magazine/pages/0603bates.aspx?_ga=2.1735993.942526431.1554930071-6854521.1554930071 and <https://smallbusiness.chron.com/advantages-disadvantages-employee-ranking-tools-22523.html> (forced distribution), https://en.wikipedia.org/wiki/Behaviorally_anchored_rating_scales (behavioral anchoring). Before analyzing a current system to update it or deciding on a new system, court leaders should explore the limitations and advantages of the selected system, and build in means to counteract limitations or issues.

- A. Ranking
This involves ranking all employees in a designated group from highest to lowest, based on performance.
- B. Forced Distribution
Employees are rated along a bell curve, with certain percentages of employees being ranked and allocated to a certain performance level.
- C. 360-Degree Feedback
Feedback on each employee is gathered from all contacts with the employee, including the supervisor, colleagues, and subordinates and involves assessing the employee's work and behavior.

- D. **Competency Based**
Performance is measured against specific competencies for the particular position, as opposed to specific tasks and behaviors that are observed.
- E. **Performance Based Measurement / Management by Objectives**
Performance standards and goals are established for the organization and for each individual employee. Employees are then evaluated based on how well they have achieved the specified performance standards and goals for their position.
- F. **Graphic Rating Scales**
A number of specific factors are defined, which include general behaviors such as attendance, dependability, quality of work, quantity of work, communication, interpersonal relations, etc., and the employee is rated in each factor or category. The rating can be determined on a scaled basis such as ranking from unsatisfactory to outstanding, on a number scale, or on a simple “meets expectations” vs. “does not meet expectations.”
- G. **Behaviorally-Anchored Rating Scales**
Behavior is being ranked in this type of system, rather than specific characteristics. Specific behaviors at different gradations of performance are used as common reference points, called “anchors,” for rating employees on various job dimensions.

4.4 Elements of Performance Management Systems

A good performance management system is designed in a way that ensures employees and managers are communicating regularly and allows for both parties to express their goals and expectations. Employees and their supervisors may have separate goals and expectations, but effective performance management systems create an environment where those goals can be aligned. Employees must be afforded the opportunity to discuss their future career goals and training needs to reach those goals, and supervisors and managers must provide the feedback, coaching, and communication necessary to assist them in developing to their fullest potential.

Performance management involves regularly documenting the strengths and weaknesses of employees in relation to goals and expectations. By doing so the court leader is able to make informed decisions about an employee’s contribution to the court, their career development, which affects workforce planning and determinations as to what training may be helpful. Additionally, performance management may lead to promotions, pay increases, and other employee actions that contribute to the effective workforce management responsibilities of the court leader.

Specific major elements of a performance management program include the following:

- A. **Supervisor Responsibility**
Supervisors must make it a part of their normal day-to-day responsibility to evaluate the performance of their subordinates, in addition to the formal meetings set aside for discussions related to performance expectations and goals. It goes to the heart of planning, assigning, and evaluating their direct reports.

- B. Performance Criteria
Managers and supervisors are charged with establishing performance criteria that accurately reflects the specific requirements of varying positions, their levels of responsibility, and any unique operating conditions.
- C. Communication
Supervisors must communicate the expectations and goals to the employee at the beginning of the evaluation period, allowing employees to understand what level of performance is expected of them, and upon which expectations and goals supervisors will objectively evaluate.
- D. Continuous Feedback
Employees respond much better with continuous feedback on their performance, whether that happens daily, weekly, or monthly, as the position and performance may require. When continuous feedback is provided, employees are less likely to be surprised by any negative feedback during the formal appraisal meeting, which contributes to maintaining good employee relations, but it will also allow the employee to correct any deficiencies before less than optimal performance becomes a habit and (mistakenly) understood as acceptable in the workplace.
- E. Developmental Coaching and Praising
Supervisors play a key role in developing their subordinates. Performance management is an avenue to allow the elements of coaching and recognition strategies to contribute towards those desired results.
- F. Link to Compensation
Meeting performance expectations and goals are sometimes linked to merit salary increases and promotional opportunities. Employees should see the connection of performance to pay and understand what pay increases are affected by performance.
- G. Career Path
Employees' goals on their career path and the supervisor's role in effectively guiding them are a necessary part of an overall effective performance management system that can benefit both the employee and the court.

See **Faculty Resource** -- Sample Performance Appraisal Document.

Activity Four (a) – Performance Criteria: Design performance criteria for a selected court position and/or give example of a low performance management review and brainstorm.

4.5 Performance Review Process

- A. Formal and Informal Review
The process of performance review must include both the formal process and the ongoing informal process of performance feedback. Feedback is most effective when it occurs contemporaneously or immediately following deficient or exemplary performance. Additionally, it is helpful to be specific and not general in nature so the employee understands exactly what performance is being addressed and how it was

either inadequate or exceptional. An immediate check on bad performance or an immediate recognition of outstanding performance sends the precise signal to the employee that either discourages or encourages certain performance.

B. Steps in the Formal Process

1. Design

The design of the formal review process is undertaken by human resource managers in the court, with input and direction at all levels of management, and often with the aid of human resource departments that work directly or indirectly with court leaders on specialized workforce management responsibilities. See **Section 4.3 Common Types of Performance Management Systems** regarding the various types of performance management systems. Most systems have common components or factors upon which the employee is being evaluated, such as work product, communication, attendance, quality and quantity of work, etc.

2. Training

Supervisors are trained in how to use the specific performance review system and how to communicate the process to their employees. Proper training is essential to ensure successful performance management.

3. Annual Review

Performance appraisal forms are used by supervisors when meeting with their employees to conduct the performance review of their subordinates. The forms provide a standard mechanism for documenting the review meeting, discussion, and decision made regarding the employee's performance. These reviews are generally performed annually, either at each employee's employment anniversary or reviews of all employees are conducted at the same time each year. Some review systems are designed with a formal process at more than one time during the year, such as at mid-year, in order to have a formal process of reviewing any specific deficiencies that can be addressed and corrected prior to the final formal annual review.

4. Self-Evaluation

Many supervisors find it helpful to ask the employee to complete a self-evaluation, which allows employees the opportunity to critically evaluate their own performance. As an alternate method of soliciting employee input, some supervisors may want to solicit more feedback in advance on areas of accomplishment or in need of improvement. Advance employee input not only helps manage expectations and potentially reduce conflict, it allows the employee to self-reflect and acknowledge deficiencies themselves, with the chance to explain reasons for negative performance and the steps they are taking to improve. It also can allow the employee the opportunity to outline exceptional performance of which the supervisor may not be aware or failed to remember or document. In essence, it gives the employee a voice and can provide a starting point in the formal review process where discussions can begin.

5. Performance Discussion

Leaders and supervisors at all levels schedule and meet with their direct reports to communicate their review and discuss both the positive and negative aspects of their

subordinate's performance over the given period of time being reviewed. Discussions are based on performance as it relates to the goals and expectations set forth at the beginning of the appraisal period. Common components being evaluated are: attendance, job knowledge, quality and quantity of work, teamwork, communication, initiative, and customer service. Additional factors being evaluated if the subordinate is themselves a supervisor may include performance management, leadership, and problem solving or decision making. Discussions with the employee may also include setting new goals, targeting areas where specific improvement is needed, and determining training paths to achieve specific goals. Setting time frames for achieving improvement or new goals is essential.

6. Supervisor's Evaluation

The supervisor completes the review forms for each of its subordinates and reviews them with their own immediate supervisor. This allows for objective analysis of performance and contributes to fairness and impartiality. Additionally, it contributes to the immediate supervisor's ability to evaluate the supervisor's skill in human resources management. This is the culmination of the performance discussion that has occurred throughout the rating period, and as such should not have any surprises.

7. Acknowledgement

Both the employee and supervisor sign the appraisal forms and the forms are then acknowledged by upper level management.

8. Record Keeping

The employee and supervisor involved in the appraisal process retain a copy of the written performance evaluation and the original document is then usually sent to and retained by the human resource department.

9. Appeals

Some performance review appraisal processes allow for the employee to appeal the formal performance evaluation, in which case specific rules and procedures must be developed and followed.

10. Performance Review/Improvement Plans

Employees who have been identified as having performance issues during a review period are sometimes given a period of time where their performance will be reviewed, such as a 90-day or 6-month review plan. Court leaders should ensure that supervisors and managers are creating effective improvement plans and following through with holding reviews of these plans as prescribed.

4.6 Performance Criteria

Performance goals for employees and performance goals for the court should ideally align. Performance goals are more likely to be accomplished if the focus is on only a few major goals at any given time. Employees generally respond better to the feedback provided when it is specific, descriptive, constructive, and directly relates to the work performed and behavior demonstrated. In other words, the goals should, to the extent possible, be SMART goals:

- A. **Specific** – specific, clear, and understandable
- B. **Measurable** – measurable, verifiable, and result-oriented
- C. **Attainable** – attainable, yet sufficiently challenging
- D. **Relevant** – relevant to the position requirements and mission of the court
- E. **Time-bound** – having a schedule with specific milestones

4.7 Common Problems/Pitfalls with Performance Management

To identify and mitigate challenges with performance management, it is critical to thoroughly consider the typical functional categories of performance management:

1. Improvement of the employee and organization’s work quality, efficiency, effectiveness, alignment, etc.
2. Coaching and guidance to motivate employees.
3. Providing improved feedback and communication in general, and specifically as to performance.
4. Tying compensation to performance to motivate employees and make the pay system more fair.
5. Gathering information to inform staffing and development decisions.
6. Documentation for personnel actions and legal actions.

Major problems may occur if the organization attempts to implement an evaluation system that encompasses all (or most) these functions at the same time. This is because:

- The goals of one function often compete with others.
- A one-size fits all system forces diverse organizational components and staff members into one framework, lacking flexibility and alignment. It is difficult to achieve commitment from such a forced process.

These common issue areas also exist:

- A. **Lack of Top Management Support**
Senior court leaders must instill an attitude and belief in all court leaders and supervisors that the performance management process is an important part of court leadership and is a valuable use of their time. If top management does not support the process, supervisors will either fail to commit the necessary time and effort to the process or fail to engage in important discussions with employees that can turn around poor performance. With the lack of upper management support, supervisors and managers will simply “go through the motions” of the process and no true performance management is undertaken, leading to stagnant or deteriorating performance and contributing to poor performance of the employee and possibly a decline in performance by the court as a whole. Employee morale is also impacted by high performing employees seeing that there is neither a reward for good performance, nor a consequence for poor performance. This can lead to a “why do I bother” attitude and influences their future performance and job satisfaction.

- B. Perception of the Process Being a Time Waster
Without the commitment to the process from the court leadership and an understanding of how the process contributes to the court's successful performance, supervisors and managers will view the process as just "busy work" that has little value and is a complete waste of time. This is especially true if management does not follow through with consequences or rewards for poor or exceptional behavior.
- C. Failure to Complete on Time
A common problem that occurs is the failure of supervisors and managers to complete and/or return the completed performance management forms by the required deadline. This leads to extra time spent by the human resource managers to follow up with managers.
- D. Failure to Communicate Clear and Specific Goals and Expectations
Goals and expectations drive human behavior and therefore performance. Oftentimes supervisors and managers fail to clearly communicate specific goals and expectations, leaving employees wondering what exactly is expected of them. Clear and specific goals lead to the development of specific plans and strategies that can result in performance that meets those goals.
- E. Failure to Follow Through and Hold Accountable
A significant problem area in performance management centers around the failure of the supervisor or the organization to follow through on the consequences of performance. This involves proper response to both failing performance and excelling performance. If exemplary performance is not properly rewarded or rewarded as promised, then high performers will often lose motivation for continuing to excel in their performance. Likewise, poor performers who are not held accountable for their poor performance and who do not suffer a consequence for not meeting expectations could lead to continued poor performance by those employees and could suggest to others that poor performance is accepted by court leaders.
- F. Failure to Communicate Changed Goals
As with most things in workforce management, communication is a key element. Communicating goals and objectives is critical to ensuring employees are aware of what is expected of them. If any time goals and expectations are changed, the failure to communicate those changed goals and expectations will lead to problems. Without communicating changes, it is difficult to hold employees accountable, and there is a high probability that the changed goals and expectations will not be met. When an employee's position and duties change or a court objective changes which requires a change in duties, managers must clearly communicate these changes to the employee in order to hold them accountable for the latest requirements.
- G. Lack of Consistency
Often there is inconsistency among supervisors and managers in rating employees, with some being seen as more critical than others. Having high standards of performance is desirable in court management, however it leads to problems across the workforce if it is not consistent among managers and supervisors. Employee morale can be impacted,

leading to problems with motivating the workforce. Additionally, lack of consistency can lead to employee relations problems, from conflict among workers, to conflict between workers and management. To avoid problems with consistency, court leaders and human resource managers should train supervisors in using the rating system chosen; and to avoid interpretation and application issues, higher levels of review should occur to calibrate ratings across divisions or the entire court workforce.

Activity Four (b) - Personal Bias: Identify types of personal bias (explicit and implicit), the potential impact of implicit bias, and ways to minimize bias in the performance review process.

4.8 Common Rating Errors

A. Lack of Differentiation

Supervisors often rate their subordinates similarly, with either too much leniency (by rating everyone high), too much severity (rating everyone low), or with too much complacency (everyone gets rated in the middle). These extreme ranges and application to all direct reports they rate are usually the result of a lack of confidence in defending their ratings or reluctance to pass judgment. The tendency to rate everyone the same can be overcome by court leaders providing the necessary training on how to properly conduct performance ratings and how to effectively document performance, and by sharing the vision that performance-based judgments are a critical part of the managerial role that aids the court in reaching its stated goals and objectives, which leads to meeting its mission and purpose.

B. Recency Effect

Supervisors often rate subordinates inaccurately by looking more heavily at the recent performance of their workers because they have failed to continuously measure workers' performance from the beginning of the rating period. Not recognizing weak performance, being diligent in documenting deficiencies, and providing continuous feedback as these events occur, can cause supervisors to overlook areas of performance and result in ratings that weigh only the most recent events that supervisors can remember.

C. Halo/Horns Effect

Supervisors fall victim to this effect when an employee is highly competent or incompetent in one area and then rated by the supervisor correspondingly high or low in all areas. Having another supervisor, such as the rater's supervisor or another supervisor in a particular workgroup in the division, provide a review of the rating allows for an objective review of all areas of performance being rated.

D. Personal Bias/Favoritism

Some supervisors may allow their personal feelings about a worker to cloud their judgment and dominate the rating process. A supervisor who has a connection with and works well with a worker may unknowingly allow their personal bias or impressions about that worker affect how they rate that employee. Likewise, if an employee annoys a supervisor in some way, although a high performer, that employee may be rated lower than their performance dictates.

E. Inaccurate Information/Preparation

Supervisors who fail to prepare properly for the rating process or fail to obtain the necessary information upon which to properly evaluate employees, will likely produce a flawed evaluation and performance rating of their employees.

Each of the above errors lead to a lack of objectivity, accuracy, and fairness in employee evaluations, and need to be avoided. Thus, each must be addressed in the design and implementation of any system.

Section 5 – Workforce Planning

Learning Objectives

As a result of this section, participants will be able to:

5. Develop a strategic workforce plan to address staffing needs for the court.

5.1 The Sustaining Component

Workforce planning is the systematic identification and analysis of what an organization anticipates needing in terms of the size, type, and quality of workforce necessary to sustain its mission, goals, and objectives. It involves determining what mix of experience and KSAOs are required for critical positions in the court and the development of strategies to get the right people in the right place at the right time.

Succession planning is an essential component of workforce planning. In succession planning, court leaders develop a plan of action to retain the organization's required workforce talents, skills, and knowledge. This component contributes to organizational performance by helping court leaders:

- Project and plan for staffing needs
- Determine the development of job classes and rules
- Manage staff and organize the work
- Manage the organizational culture, including job movement and promotion
- Anticipate and manage the risk in areas of staffing needs and development

5.2 Levels of Workforce Planning

Workforce planning is performed at both a strategic and operational level for the organization. As outlined below, the court should be looking at both its long-term goals and short-term operational functions that require proper placement and retention of knowledgeable workers.

A. Strategic Workforce Planning

This involves system-wide strategies that usually covers a period of three to five years and supports the court's overall strategic plan. Courts should look at workforce factors that affect the entire court, such as succession planning with anticipated retirements or employee exits and possible staff reductions due to budget cuts or shortfalls in anticipated revenues. Strategic workforce planning has the following characteristics.

1. Staff training and development
2. Identifying workforce implications and scenario planning
3. Mostly occurs at the senior leadership level, but depending on the court size, can be planned by division or program level

B. Operational Workforce Planning

This involves looking at individual work unit issues and covers 12-18 months, generally corresponding with the budget cycle for the court. This involves gathering, analyzing, and reporting on how to sustain the work unit's ability to fulfill goals and objectives. Operational workforce planning has the following characteristics.

1. Planning that involves carrying out the court’s strategic workforce planning strategies
2. Responding to external workforce factors that impact a particular work unit
3. Mostly occurs at the supervisor level

For an example of a workforce plan, see the State of Washington’s Supervisor’s Guide to Developing Operational Workforce Plans

(https://www.google.com/url?q=https://ofm.wa.gov/sites/default/files/public/shr/Strategic%2520HR/Workforce%2520Planning/SupervisorsGuidetoDevelopingOperationalWorkforcePlans.pdf&sa=D&ust=1558212805228000&usg=AFQjCNEwo1Ex9GtKRIHmKfOlGIURx_4y9g).

5.3 Workforce Planning Model

A. Senior Court Leadership – Strategic Workforce Planning:

1. Workforce Issues
What are the key workforce issues that will impact the overall mission of the court?
2. Workforce Goals
What key workforce goals must be accomplished to support the mission of the court?
3. Workforce Objectives
Upon what areas should one focus to achieve the workforce goals?
4. Workforce Strategies
What strategies and action plans will need to be used to achieve all the objectives as they relate to staffing, infrastructure, organizational design, organization culture, and risk management?

A. Supervisor Leadership – Operational Workforce Planning:

1. Operational Issues
What are the key workforce issues that will impact court operations?
2. Operational Objectives
Upon what areas should one focus to sustain court operations? How will it be known if court operations are effectively sustained?
3. Operational Strategies
What strategies and action plans will need to be used to achieve all the objectives as they relate to staffing, infrastructure, organizational design, organizational culture, and risk?

For an example, see the State of Washington’s Guide to Developing Strategic Workforce Plans (https://www.google.com/url?q=https://www.ofm.wa.gov/sites/default/files/public/shr/Strategic%2520HR/Workforce%2520Planning/GuidetoDevelopingStrategicWorkforcePlans.pdf&sa=D&ust=1558212805222000&usg=AFQjCNHzylC3R64SqHJixSzB_YBurKpoog).

5.4 Steps in Workforce Planning

- A. Understand Your Current Workforce and Work Requirements
What do you have now? The court leader must examine the current makeup of the workforce, identifying the positions and what work they perform. Job descriptions and job duty lists created from a thorough job analysis will provide this information.
- B. Project Future Workforce Requirements
What will you need based on your anticipated departure of employees? The court leader should identify which positions in the court are vital and key for operations. An assessment of current vulnerabilities and future needs must be done. Which positions are at risk of losing employees due to retirements or probable exits, based on an age and attrition study?
- C. Create a Pool of Talented, Skilled, and Knowledgeable Employees
This must be done in order to ensure there are employees prepared to assume key positions when needed.
 - 1. Identify the skills needed for the key positions
This can be done through the development of a list of competencies for the positions and through employee interviews and focus groups.
 - 2. Create and implement Individual Development Plans (IDP)
Plans should include competencies and training needed for the positions desired.
 - 3. Create and maintain a database of individuals pursuing key positions and update it as KSAOs obtained and as vacancies occur.
- D. Create Solutions to Address both Organizational and Employee Needs
Strategically planning for the filling of vacancies of key positions in the court can work to fulfill both the organizational goals and the needs of the employees. By communicating the plan to its employees and working the steps to create individual development plans for those employees that will provide them with the KSAOs they need, the court gains from having key positions always filled with skilled and knowledgeable employees, while also contributing to the career growth of the individual employees throughout the court.
- E. Plan for Internal Controls and Risks
Integrate workforce planning into the court's overall internal controls plan and risk analysis (see Section 8 below). For instance, consider the back up of key functions and cross-training of staff as well as compliance with applicable legal requirements.

Activity Five – *Develop a Strategic Workforce Plan*: the purpose of the activity is to identify workforce training needs and develop a strategic plan for providing staff with the skills and training needed to fill the gaps.

Section 6 – Employee Development/Professional Staff Development

Learning Objective

As a result of this section, participants will be able to

6. Assess the education and training needs of the court to improve staff development and performance.

6.1 The Learning Component

An effective court relies on its personnel to perform the day-to-day functions and processes that sustain its operations. The court leader must recognize the need for continued education and development of its employees; this becomes apparent in many areas of workforce management, from performance management to employee relations to workforce planning.

The education and development of court staff should be aligned with the mission and objectives of the court. To support the public trust and confidence of the judiciary, the court workforce must be educated on the purposes and responsibilities of courts and what ethical and professional conduct is required of court employees. This not only ensures that legal and ethical obligations are followed as required of public servants, but also that staff conduct and performance elicits a feeling and belief among the public and court users that the process was fair, timely, and impartial.

Court leaders have an important obligation in developing staff to ensure organizational goals are being met. Achieving success involves doing the following:

1. Creating a learning culture where opportunities for formal and informal learning can occur at all levels of the workforce
2. Ensuring personal development of staff as a key performance objective for all
3. Building learning opportunities from evaluating successes and failures
4. Creating cross-training programs and opportunities to improve knowledge management
5. Matching competencies needed for each position with the workforce incumbents and having a hiring and training plan to fill the gaps
6. Measuring development of subordinates toward the goal of assessing future leaders
7. Maintaining collaboration between hiring managers and recruiting professionals to plan and conduct necessary training when competencies needed are lacking in the labor pool
8. Monitoring performance appraisal methods and adjusting for trends in staff development needs

6.2 Assessing the Training and Education Needs of Court Employees

Determining where training and education is needed for staff development in the court involves conducting the following:

- A. **Organizational Analysis**
In addition to aligning the development of the court's workforce with its mission, goals, and objectives, the court leader must include continued staff development as part of its strategic plan. Being able to communicate the goals and objectives of staff development to the management team is a critical first step in aligning those goals. The court leader must also determine what resources are available for training and educating the court's workforce and be able to communicate the benefit of staff development to its funding agent to ensure the resources to maintain those initiatives are received.
- B. **Person Analysis**
The court leader must identify the individual training and educational needs of the workforce, determine who will provide the necessary instruction, and decide how it will be implemented. Existing or new employees may lack certain KSAOs necessary to effectively perform their jobs, or processes and procedures may have changed, for which education and training is needed. Identifying the KSA's for which training is needed is a task that the management team of the court must work together to define. Who will provide the training and education needed will differ based on the particulars of the need, the existence of any training staff employed by the court, and the funding available for these needs.
- C. **Job Analysis**
Conducting a proper job analysis, as described in Section 2 of this curriculum, will provide the court leader with the information needed to determine what the main duties are for a particular position and the skill level required. Conducting a job analysis for each position will ensure that the training that is developed will be properly associated with the requirements of the job.
- D. **Performance Analysis**
The court leader should engage in the practice of identifying performance gaps for which training and education of the staff member may be needed. Working with supervisors and the court management team during the performance review process and evaluating the results is a necessary process that will reveal where training and education is needed for effective staff development.
- E. **Content Analysis**
Determining the appropriate content for training is critical to ensure the training does not conflict with the requirements of the job. Analyzing what knowledge and information is needed for certain positions is essential for keeping the training and education relevant. Established procedure manuals, laws, or regulations that must be followed for performing certain jobs must be a part of the training content that is meted out. The use of Subject Matter Experts (SMEs) to aid the trainer in developing the content is extremely helpful.

- F. **Training Method Analysis**
The method of educating and developing staff may not always involve formal training. The court leader should analyze what method of training would be most effective for developing staff. Coaching and mentoring from seasoned co-workers is often as beneficial, if not more so, than a formal training session. The court leader should look at all possible avenues for developing staff and build that into a solid workforce development strategic plan.
- G. **Cost-Benefit Analysis**
The court leader must analyze the effectiveness of the workforce development plan to determine if the value gained by the staff development mechanisms put into practice are greater than the cost to administer the training or education provided. Investing in staff development is a critical component of workforce management, but the methods used must provide an overall benefit to the court that outweighs its cost.

6.3 Areas Where Training Need is Revealed

- A. **New Employee Hiring**
Orienting employees to the workplace, especially ones new to the court environment, is an essential area where training must occur. Court leaders must ensure proper orientation programs are in place to ensure a good foundation exists for success for both the new employee and the managers and court leaders who depend upon the performance of that employee. Proper and effective onboarding of new employees involves many facets of training that begin the staff development process for that court employee. Establishing a specific training path for a new employee to fill gaps in KSAOs and also to place them on a career path in which they are interested, are all components of new employee hiring and staff development.
- B. **Performance Reviews**
Performance deficiencies reveal areas where training and development of an employee may be needed. Court leaders must investigate when performance problems occur to determine if that employee lacks the training they need or whether some other staff development tool must be explored to improve performance. Coaching and mentoring can supplement formal training programs and often result in growth in staff development from both the employee and mentor perspective, leading to future leaders.
- C. **Workplace Conduct**
Improper conduct by an employee can demonstrate an area where training is needed. For example, behavior that may be deemed harassment or discriminatory will require training to educate staff on the acceptable and unacceptable behaviors and conduct under the law and policies of the court. Additionally, disciplinary action or corrective action meted out to employees following improper workplace conduct is a method of staff development by teaching the employee acceptable workplace behavior and moving them toward a path of growth in professionalism.
- D. **Promotions and Transfers**
When employees transfer to other divisions of a court or are promoted they may have

new duties and responsibilities with which they are unfamiliar. Staff development is achieved when education and training is provided in the necessary areas to assist employees in succeeding in their new roles.

- E. **New/Changing Policies and Procedures**
A changed policy or procedure often requires training to avoid a misunderstanding or misinterpretation of the new rule. The court leader must recognize that not all employees will understand the change or the reason behind it and that by communicating with staff of what is behind a new or changed rule and the expectation sought from the change, there is a better chance of success of compliance with and acceptance of the change.
- F. **New Programs and Initiatives**
Communicating and educating the workforce about a new program or initiative the court has decided to undertake is essential in achieving the program's success. Court staff must receive the necessary training for what role they play in the program or initiative and be trained on the overall objective the court is seeking to achieve with the new program. Understanding the "big picture" and the steps each has to perform to create the result desired is something the court leader must ensure happens.
- G. **New Technologies**
Often new technologies are introduced to the workforce without proper training on how to use them. This results in inefficiencies that were sought to be corrected by the new technology. Court leaders must seek the training necessary for themselves and court staff and promote knowledge sharing to ensure the best use of the new technology is occurring.
- H. **New Laws and Regulations**
It seems new laws and regulations are passed daily and it requires the court leader to keep up with these changing requirements and ensure appropriate training for employees who must follow these laws and regulations in the performance of their duties.
- I. **Complaints being received**
A complaint by a member of the public can reveal an area where additional training is needed. Likewise, a complaint by a judge, attorney, or employee's fellow co-worker can highlight an area where training may be needed, for the specific employee for which the complaint is about, or for a larger portion of the workforce.
- J. **Survey Results**
Employee satisfaction surveys and public surveys often reveal areas where the court leaders were unaware training was needed because they were unaware that improper procedures were being followed or improper conduct was occurring. Conducting periodic surveys can help court leader learn where training may be needed.

6.4 Developing a Training Program

Developing a training program involves using court leaders and human resource staff, along with SMEs, for the functional area that is sought to be trained. The following specific training can be pursued by the court leader:

1. Organizational Training
2. Supervisor/Manager Training
3. Leadership Training
4. Employee Specific Training Plans

Court leaders must determine if they have appropriate trainers on staff, need to either bring trainers in, or send employees to formal training seminars and conferences. The use of online and video training has become prevalent due to time and funding issues.

It is important that adult education principles be used in the design and delivery of training and education programs. NACM (as well as the National Association of State Judicial Educators (NASJE)) conferences, webinars, publications, and other resources are excellent sources of education and training. In addition, the National Center for State Courts Institute for Court Management (ICM) provides insightful courses, and some may be interested in exploring the University of Denver Sturm College of Law's M.S. in Legal Administration.

See the ***Educational Development Core Curriculum Design*** for more information on employee education and staff development.

Section 7 – Developing and Updating Compensation and Benefit Plans

Learning Objective

As a result of this section, participants will be able to:

7. Assess and recommend appropriate compensation and benefit structures.

7.1 The Cost Component

As with many organizations, the cost of human resources accounts for a large part of the operating budget. Specifically, in court systems, the percentage can often be somewhere between 90–95% of the operating budget. Given this high percentage of cost to the organization, court leaders should devote the required time and effort necessary, or elicit the services of a qualified expert consultant, to ensure the appropriate pay and benefit structure is created. It is crucial that the compensation and benefit structure established contributes in a positive way toward recruiting and retaining the human resource talent needed to carry out the mission, goals, and objectives of the court and ensuring the best return on investment possible, given the funding constraints often experienced by courts and public entities, in general.

For many courts, establishing and updating employee pay and benefit structures are elements of workforce management that often involve a special human resource manager or the assistance of a separate human resource department of the funding agency that assists the court in setting and implementing pay plans, and designing and structuring appropriate benefit plans, both of which work to attract and retain the talent needed for the court in a competitive marketplace.

As a publicly funded entity, the court is generally restricted in setting the amount of compensation for its employees. Court leaders face the challenge of persuading their funding agency of the level of compensation deemed necessary to effectively carry out its mission and reach its performance expectations. The following sections may assist the court leader in developing a strategy for proposing funding for salaries and benefits that are at an appropriate level for the needs of the court.

7.2 Compensation Strategic Planning and Design

Court leaders and managers must design pay plans that are structured in a way that attracts competent and knowledgeable workers. The compensation infrastructure that is designed and maintained for the court should consist of:

- A compensation philosophy;
- A set of jobs covering the roles of the court; and
- A set of pay ranges with strategic pay rates that include guidelines for starting pay, promotional pay, merit increases, and other pay actions and issues.

A. Compensation Philosophy

The compensation philosophy developed by the court, if it is within its power to set the pay structure for their employees, should support the court's strategic plan. For example, if the strategic plan for the human resource elements of its operations sets forth a strategy to recruit, obtain, and retain the top talent in the region for court operation positions, then the compensation philosophy would be to structure a pay plan

that offers highly competitive salaries for court positions based on the salaries paid to employees in similar court positions of similar sized courts in the same geographical region. Having a compensation philosophy provides the compensation professionals with a guide for establishing or restructuring a valid compensation infrastructure for the court.

Compensation philosophies can include strategies for the following:

- Recruiting and attracting people to the court;
- Retaining key talent for critical (and non-critical) positions;
- Motivating and rewarding high performing employees; and
- Having modified pay plans for “hot jobs” or hard to recruit and retain positions (e.g., IT positions).

B. Compensation Design Considerations

The approach to compensating employees should do the following:

- Be compatible with the court’s mission, goals, objectives, and strategies
The court’s compensation plan should be not only aligned with the court’s strategic human resource plan but also be adjusted as necessary to accommodate any changes to the court’s mission, goals, objectives, and strategies. As a publicly-funded organization, a court does not have the luxury to increase pay as frequently and aggressively as a profit-driven organization that is highly successful. However, if a court’s strategies or mission changes, such as adding specialty courts to its overall structure, the pay structure may have to be modified to accommodate the pay required to attract and retain employees with specialized skill to fill positions required of such courts.
- Be compatible with the court’s compensation culture
Does the court have an entitlement compensation culture, a contribution-oriented compensation culture, or a combination of both? By its nature as a public entity, courts generally have an entitlement compensation culture, where employees are entitled to benefits such as health care, various insurance plans, employee assistance plans, and periodic cost of living adjustments. Organizations with a contribution-oriented compensation culture see employees as contributors and the compensation program is performance driven. Highly successful courts have a culture that is a hybrid of the two.
- Be appropriate for the court’s workforce
Are parts of the workforce made up of primarily entry-level or unskilled workers or experienced, highly-educated professionals? The compensation and benefit program can differ based on the answer to this question. The structure of the compensation program for a court may be separated into separate pay plans for each part of its workforce. The court must analyze the profile of its workforce to ensure it has a compensation program that meets the needs of its workforce.
- Be externally equitable
To attract and retain employees, courts must compare their compensation levels with those of competing organizations, whether that be other courts or other entities who require a workforce of similar education, skill, and abilities. The type of industry (i.e., courts or other

public entities), positions (employees having the same skills or experience), and location (employing workers in the same geographical area) are all factors that must be looked at when comparing labor markets and determining external equity.

The court must decide if it seeks to and is able to match the market, lead the market, or lag behind the market in its compensation and benefit plan. As with many public entities, the court may prefer a strategy of meeting or lagging somewhat behind in the compensation plan, but lead in the benefit structure offered to its employees. For critical jobs or ones that are highly recruited such as IT positions, the court may decide to lead the market. Funding and considerations with other branches of government, of course, often dictates this area of the compensation and benefit strategy.

- Be internally equitable
Courts should ensure that unique jobs are appropriately compensated. As various positions are compared with each other within the court, performance or job differences should result in corresponding differences in pay rates. This internal equity ensures compliance with federal laws such as equal pay for equal work and that discrimination against protected classes is not occurring.
- Be effective in the recruitment and retention of employees
Although factors other than pay often affect the recruitment and retention of employees (e.g., management behavior, location, working conditions), the compensation and benefit program has a significant impact on the court's ability to hire and retain competent and high performing employees. If the court has a higher than desired employee turnover rate or is unable to successfully attract quality employees, then the court should examine its compensation and benefits plan to determine if appropriate adjustments need to be made.

7.3 Compensation Structure

A. Job Analysis

Establishing and maintaining pay grades and pay plans begins with a thorough job analysis. This, which is described in more detail in **Section 2** of this curriculum design, involves a study of the positions in the court to determine the duties and responsibilities involved, their relative importance in comparison with other court jobs, and their qualifications necessary to perform the job (KSAOs). Information obtained from the job analysis can be used to develop job descriptions and job specifications, which is needed to classify positions into appropriate pay grades.

B. Job Evaluation

Job evaluation is the process of comparing jobs against each other to determine the relative worth of the individual job, its value to the organization, and therefore the appropriate pay rate. By conducting a job evaluation, the court establishes a hierarchy of jobs which ultimately leads to an appropriate pay plan for the court workforce.

An internal job evaluation is performed if the court has a philosophy and strategy that focuses on ensuring internal equity of pay among positions within the court. The evaluator looks at the relative worth of each position and establishes a hierarchy of jobs within the court leading to a fair and equitable pay structure.

1. Methods

Job Evaluation methods can be quantitative, qualitative, or a combination of both:

- Quantitative approach - involves using facts based on collected data to define a job and establish how much more one job is worth compared with another job using a scaling system.
- Qualitative approach - uses observation or descriptions to define jobs and attempt to establish a relative order to jobs.

2. Job Evaluation Systems

Many systems for conducting job evaluations exist among both approaches such as point factor, factor comparison, custom factor comparison, job ranking, and job classification. Job ranking and job classification are two common methods used by courts:

- Job Ranking - involves establishing a hierarchy of jobs from lowest to highest based on each job's overall value to the court operations. This method is not generally used if evaluating a large number of positions.
- Job Classification – involves grouping jobs into a predetermined number of grades or classifications, each having a class description to use for job comparisons. This method is often used by courts and public entities in general, especially those with a large number of positions. Examples include the federal government classification system or General Schedule (GS) with each classification of positions assigned a number, and state and local civil service classification systems.

3. Who Performs

Courts can use the services of compensation experts to perform job evaluations or can perform these in-house, if staff is experienced or trained in this function. Either way, the court leader should involve knowledgeable senior employees who understand the functions of most of the court positions to assist with this process to ensure the most accurate comparison and scaling of individual positions among one another. Courts can use consultants, however, to maintain objectivity in the process.

4. Use

Courts can use job evaluations to:

- Ensure compliance with federal laws and regulations on equal pay;
- Create and maintain consistent compensation structures of positions as they relate to each other;
- Aid in designing compensation programs based on performance; and
- Aid in establishing competitive pay rates.

External job evaluation methods are sometimes chosen. In recent years, organizations have started to use a combination of external and internal comparisons, which involve external market benchmarking.

C. Market Pricing

A court may decide that creating a pay structure by looking at the external value given to

individual jobs is more likely to help the court meet its strategic goal of attracting and retaining a highly knowledgeable and competent workforce. This becomes especially important for courts in areas where there is a high degree of competition for similarly sought after talent in the workforce.

Setting pay structures using market pricing involves collecting, analyzing, and matching salary survey data, which is ubiquitous in the online world. However, caution should be used by the court leader, especially one not experienced in the area of salary survey analysis, when choosing survey data to use.

1. Some questions to consider:

- How do you know which surveys are valid?
- What information about a particular job is obtained by the surveyor who is providing the salary survey data?
- Are they providing data by city, state, region, or just nationwide?
- Are you comparing similar position responsibilities and requisite KSAOs (regardless of similarity of job titles)?
- Ensure awareness of the principal sources of bias, and steps are in place to mitigate the impact of potential biases.

2. Options if using market data sources:

- Purchase a salary survey from a consulting company
- Hire a consultant to perform a custom salary survey
- Purchase a salary survey completed by an association or organization familiar with court positions
- Use wage and data information from the Bureau of Labor Statistics

3. Possible sources of market pricing as it relates to comparing with other court positions:

- Conference of State Court Administrators
- National Association for Court Management
- Other court professional associations
- Court administrative offices
- National Center for State Courts – consultants or studies
- Private consultants conducting custom surveys
- Online salary survey websites with court positions

A consideration when looking at market pricing or conducting a market-based evaluation is to decide the proper point of reference for comparison. It is critical when comparing positions to one another, that the evaluator compares duties, scope, and reporting relationships, not just job titles, as they can often be misleading.

4. Resources

The following are some examples of salary surveys from various sources:

- [Salary survey information for a court position – Court Clerk](#)
- [Salary survey done by the city for statewide comparison of municipal positions](#)
- [Salary survey performed by consultant for court positions across the country](#)
- [Online salary determination tool and survey](#)

D. Pay Structure

1. After the target pay rate for benchmark positions is determined, the next step is to develop the actual pay structure for the court. The establishment of pay grades is first determined, followed by the calculation of pay ranges for each pay grade for the various court positions. Properly using benchmark positions, through job analysis, job evaluation, and market pricing, will provide the necessary information to establish the pay grades and pay ranges needed.
 - Pay Grades are established by grouping jobs together that have the same relative internal or external worth. Jobs in each pay grade are paid with the same pay range. Generally, there is a 10 – 15 percent increase from one pay grade to the next.
 - Pay Ranges are calculated with a minimum and maximum amount of pay for each pay grade that is established. The market data from the surveys is used to establish the mid-point of the pay range, which can vary depending on the court's compensation philosophy and policies related to promotion and pay increases.
2. The number of pay grades the court establishes can vary based on:
 - Size of the court
 - Differences between various types of positions in the court
 - Promotion and pay increase policies of the court
3. The pay range spread is determined using percentage guidelines that can be calculated in one of two ways:
 - Differently classified positions, such as Exempt, Non-exempt, or Executive positions or
 - Different position types such as clerical/office positions and management/professional positions.
4. To calculate the percentage, range for a particular job, the following formula is used:

Formula:	$\frac{\text{Maximum pay} - \text{Minimum Pay}}{\text{Minimum Pay}}$	
Typical percentage guidelines for pay range spreads for differently classified positions		
Non-exempt positions:	40%	
Exempt positions:	50%	
Executive positions:	60%	
Example:	Non-exempt position with a pay range of \$35,000–\$50,000 is as follows:	
	$\frac{50,000 - 35,000}{35,000} = .429 \text{ or } 43\%$	

Typical percentage guidelines for pay range spreads for different position types	
Clerical and office positions:	10% above and below the mid-point
Entry to mid-level management positions:	30% above and below the mid-point
Examples:	
Clerical or office position:	\$27,000 - \$33,000 (mid-point = \$30,000)
Mid-level management position:	\$31,500 - \$58,000 (mid-point = \$45,000)

5. Considerations when establishing pay ranges –

- Lower level jobs usually have a narrower range between minimum and maximum salaries than upper level jobs because it is generally presumed that entry level jobs have more promotion possibilities, and therefore stay at the entry level for shorter periods of time. By contrast, those in upper level positions tend to stay in their positions longer.
- An overlap between pay ranges should exist, which allows for a person in a job for a longer period of time and thus more experienced, to be paid more than someone in a higher position for a shorter period of time, and thus less experienced. Without overlap of pay ranges, promotional actions could violate the court’s pay increase policies and also have a detrimental effect on available funding for salaries. Too high of an overlap in pay grades, though, could lead to low interest in promotions because the promotional increase will be too low.
- The mid-point difference between pay ranges should be large enough to avoid salary compression issues between a position and its supervisor.

E. Payroll Functions

It is important that the court leader recognize some of the nuances involved with payroll functions as they relate to the compensation of the workforce and at a level where proper coordination is occurring with the human resources department charged with these

functions for court employees. Courts generally are responsible for the payroll functions only at a level that requires proper timekeeping, proper record keeping as dictated by the local governing body, and completion of appropriate paperwork related to employee timekeeping systems. The court leader must ensure that there is appropriate oversight for those employees charged with performing any payroll related functions that affect compensation and benefits, and must also remain knowledgeable about how employee compensation relates to proper budgeting for the court.

Activity Seven – Developing Pay Scales: the purpose of the activity is to learn to develop appropriate compensation plans for different pay strategies.

7.4 Benefit Programs

Courts, like any employer, can use various forms of indirect compensation to attract, motivate, and retain competent employees. It is dependent, however, on the structure of the public entity managing this for court employees. Employee benefits is probably the most complex part of compensation plans due to the often changing and complex laws, regulations, and policies of federal, state, and local jurisdictions. Although generally managed by the federal, state, or local governing authority for the jurisdiction in which the court sits, court leaders should be familiar with the various forms of benefits that are available or required to be bestowed upon court employees, in order to communicate these to existing employees as part of their total compensation package, to both attract and motivate a competent workforce where competition for salary and benefits exists.

- A. Insurance Plans – The types of insurance plans can vary from jurisdiction to jurisdiction, but the most frequently offered or required plans consist of:
 - Health Insurance (HMO's, PPO's, HDP)
 - Dental Insurance (Standard or Premium Plans)
 - Vision Insurance
 - Life Insurance (group employer provided plans of established death benefit amounts)
- B. Leave Plans – This can include paid time off (PTO) for whatever reason, or specifically defined leave plans such as:
 - Sick Leave and Vacation Leave
 - Funeral Leave
 - Holiday Leave
 - Civil Leave
 - Comp Earned Leave
 - Educational Leave
- C. Retirement Plans – As public entities, the retirement plan provided to employees is usually a defined benefit plan typically funded by the court's funding agency and with strict participation, vesting, accrual, and funding standards. The employees usually contribute some percentage of their pay to the plan.

- D. Voluntary Benefit/Insurance Plans – With the support of the funding agencies, courts can offer a variety of voluntary benefits to its staff, available at the employer’s group rate:
- Supplemental Life Insurance
 - Supplemental Retirement contribution plans - 457(b) Deferred Compensation plans
 - Tuition Assistance
 - Wellness Plans
 - Accident Insurance
 - Critical Illness Insurance
 - Disability Insurance
 - Cancer Insurance
 - Identity Theft Insurance
 - Financial Counseling
 - Employee Assistance Programs
 - Pet Insurance
- E. Legislatively Required Plans – Certain benefits are statutorily required:
- Family Medical Leave
 - Military Leave
 - Worker’s Compensation Benefits
 - Unemployment Compensation
- F. Legislation Related to Benefits – Many legislative acts deal with employee retirement and health and welfare plans. The following are just some of these:
- Family Medical Leave Act (FMLA)
 - Pregnancy Discrimination Act (PDA)
 - Patient Protection and Affordable Care Act (PPACA)
 - Social Security Act (SSA)
 - Employee Retirement Income Security Act (ERISA)
 - Health Insurance Portability and Accountability Act (HIPAA)
 - Consolidated Omnibus Budget Reconciliation Act (COBRA)
 - Uniform Services Employment and Reemployment Rights Act (USERRA)

Section 8 – Personnel Risk Management

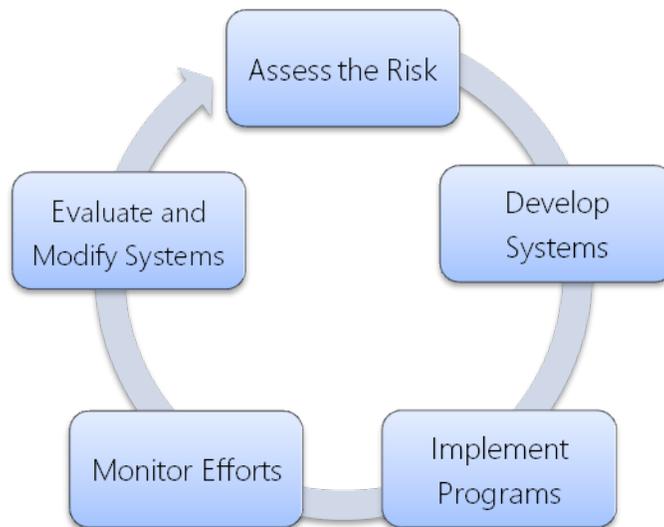
Learning Objective

As a result of this section, participants will be able to:

8. Evaluate potential areas of risk to court personnel and establish and implement policies to prevent or mitigate those risks.

8.1 The Threat Component

Courts today, like many organizations, are exposed to areas of risk to the health and safety of its employees, and to its operations, thereby affecting the ability to carry out the administration of justice. The court leader must be familiar with and assess all areas of potential risk that can affect court personnel, develop and implement safety and other programs, monitor and evaluate the steps taken, and be able to prevent or control how the risk affects the court operations.



Many areas of workforce management are affected by risk concerns such as workforce planning, employee development, compensation and benefits, and employee relations. In the normal course of court operations, employees may encounter circumstances that pose harm to their well-being. Potential harms may include threats to physical, mental or emotional well-being. Employees may also create circumstances that pose harm to the larger court organization. Such harm may be indirect, such as a situation that raises liability involving a co-worker, or the harm to the court may be more direct. The court should have a program developed to manage risk as it relates to the various areas of human resource management. This could involve human resource managers and staff or a committee of managers and supervisors within the court, and involves coordinating with human resource departments and risk management departments of the funding agency for the court. Such programs should work to assess the risk and manage risk in all areas of personnel management. Courts must be prepared to support employees with appropriate resources and to take necessary actions to defend the court as may be required. Such steps may include prevention, such as cross-training and staff development, or mitigation after the harm has occurred.

8.2 Areas of Risk in Personnel Management

The devastating effects of Hurricane Katrina on the operations of the New Orleans area courts in 2005, the impact to security policies and procedures in courthouses following the September 11, 2001 attacks, and various shooting instances in courthouses around the country, are all examples of high profile events that had major impacts on risk management in the areas of safety, security, and business continuity, all of which include aspects of workforce management. These and other areas of risk management exist which impact personnel and for which the court leader must plan and deal with strategically and on a day-to-day basis.

A. Business Continuity and Disaster Recovery/Organizational Risk –

Effectively managing the workforce during an emergency situation and in the aftermath of disaster recovery is vital. Courthouses can suffer many disaster-related events that impact operations and the workforce when personnel are displaced or the use of the courthouse is hindered in some way. In addition to the high profile instances noted above, other events can occur such as fire, flood, or other natural weather events and coordinating personnel and other human resource activities must be accounted for in the court's Continuity of Operations Plan (COOP) (See NCSC COOP Planning Guide at <https://www.google.com/url?q=https://www.ncsc.org/Services-and-Experts/Areas-of-expertise/Emergency-planning-and-security/Planning-Guide.aspx&sa=D&ust=1558212805283000&usg=AFQjCNHFghCxSCLAhivxmtDNVdYtEGcEaw>).

B. Workers' Compensation

Protecting employees from work related injury or disease is an area of risk that is managed by policies and procedures dictated by state law and regulations. The court leader must have human resource managers and staff that are familiar with the requirements of workers' compensation law in their jurisdiction or coordinate with the risk management agency or department of their jurisdiction and funding agency.

Workers' compensation comes into play in the following situations:

1. Injuries
2. Accidents
3. Ergonomic issues with workstations, that lead to medical issues
4. Environmental health hazards (physical, chemical, biological)
5. Substance Abuse

The court leader should have policies and procedures in place for preventing these situations and for appropriately responding to incidents giving rise to workers' compensation. Training of court staff is essential and can mitigate costs associated with workers' compensation incidents. The court can establish and maintain a safety program made up of management, supervisors, and front line staff who are trained in preventing and responding to accidents and injuries and who can work to train other court staff on a regular basis.

C. Safety and Security

The safety and security of judges, court staff, and the public who appear in the courthouse, is of paramount importance in the area of risk management. Most jurisdictions have some type of security personnel present in the courtrooms and the halls of the courthouse building, which may consist of local law enforcement or special court security officers. The court leader must have policies in place, either through court orders or general court personnel policies, that require employees to follow established security procedures, follow orders of court security personnel during emergency situations, and the reporting of security incidents. A courthouse security committee may be created to evaluate security threats and risks and court leaders should be part of the committee. The following security risks that are addressed and for which court employees must be trained on how to respond are the following:

1. Bomb Threats
2. Fire and Evacuations
3. Active Shooter situations
4. Terrorist incidents
5. Extreme Weather Situations
6. Workplace Violence
7. Violent outbursts from the public

8.3 Responsibilities Related to Human Resources

The following areas of human resource responsibilities must be addressed with any emergency situation or accident or injury involving a court employee:

A. Continuity of Payroll Processing

During an emergency situation where court staff are displaced and operating in an alternate location or if the courthouse building is closed for an extended period of time, court employees expect to be, and should be, paid. Court leaders must have policies and procedure in place for ensuring payroll functions can still be carried out remotely or at an alternate worksite. Having mobile technology abilities, through mobile computers with appropriate payroll software, remote-in service to a cloud payroll environment, or other similar remote payroll mechanisms, can help ensure payroll can still be processed.

B. Special Disaster Related Leave and Pay Issues

The court should have policies in place on what type of leave may or may not be required when the general workforce is unable to work during a disaster or emergency situation. Defining which employees/positions are considered “essential employees” for maintaining operations during an emergency or for continuity of operations during disaster recovery, determines what leave type or special pay is required. Courts, as publicly funded operations, are often reimbursed for expenses, including overtime and disaster recovery operation pay, by the federal and/or state government, so maintaining accurate payroll records showing which staff members are working during declared emergencies or during disaster recovery, and what type of work they are performing, is critical to ensuring the court or funding agency can be reimbursed for those human resource expenditures.

- C. Health and Safety Issues While Working Onsite During Disaster or Emergency
A situation may develop where the court leader must determine if it is safe to continue to work in a courthouse during extreme weather situations or following a disaster such as fire, flood, or environmental hazard. Court leaders must coordinate the workforce and work schedules to accommodate the needs of the court operations, while balancing the health and safety of the workforce.
- D. Evacuation Procedures
Court leaders should provide a mechanism for assigning and training staff to serve as “floor wardens” during evacuation procedures related to fire alarms, security incidents, or other occasions where staff must be directed out of the courthouse building and subsequently accounted for. The court leaders may ask for volunteers to serve in this capacity or assign this as a required responsibility for certain positions. Training staff on proper evacuation procedures is an important step in managing risk associated with evacuations.
- E. Progression of Management Authority/Order of Succession
Court staff need to know the order of leadership succession that the court will follow in the event of an emergency situation. Making sure those in management authority have contact information for all levels of supervision is part of the required procedures and training that must occur. Similarly, management should regularly review and reauthorize orders of succession whenever key personnel changes occur in the organization.
- F. Alternative Work Sites, Work Schedules, Telecommuting
Following a declared disaster or event affecting the occupancy of the courthouse, court leaders will direct employees to an alternate work site and set appropriate work schedules for limited staff or essential workers performing at alternate work sites. Policies involving telecommuting should be established as well, including regular testing and evaluation of telecommuting capabilities.
- G. Emergency/Essential Workers
If disaster orders are issued for which the courthouse is closed or unavailable for court operations, emergency plans usually provide for an alternate worksite in which to continue operations. The court should have in its emergency plan, the designation of “essential” employees who continue to work. Determining which positions are “essential” is critical as it must include those positions required to continue essential operations that are required by law or for which constitutional rights must be protected. Since there is an added cost to emergency and essential workers on the payroll during emergency or disaster situations, the court leader must carefully evaluate the workforce and select those positions which are necessary to continue the required operations.
- H. Emergency and Disaster Training of Staff
Training of court staff on what to do during an emergency or disaster situation is an ongoing activity. Mock drills for fires, biohazards, active shooters, and violent activity is something the court leader should include in periodic intervals and coordinate this training with court security personnel.
- I. Protection of or Retrieval of Personnel Related Records
Payroll and personnel records of court staff must be maintained in a confidential and secure manner and retained according to laws and regulations. Preventing the misuse of confidential information contained in these records requires the establishment and

adherence to strict policies and procedures for court staff who process these records. Having retention schedules that are required for these records and ensuring these are followed are all essential risk prevention methods.

J. Development of Rules, Policies, and Procedures, and Processing of Forms

Having effective rules in place and establishing appropriate policies and procedures for all areas of risk is an important responsibility of managing risk. Court leaders must not only consider the risk that some offenders may pose to the staff and the public, such as criminal offenders in the courtroom and the danger to people that they may pose, but they must also be prepared to manage the threat from internal risk situations such as accidents and injuries leading to workers' compensation claims and workplace violence between staff members. All of these risks require adopting rules and policies, which must be communicated to court staff.

The often tedious, but very necessary, part of these responsibilities involves developing and using forms that are used to document the employees' receipt of the rules established that seek to prevent the risk, forms to document the facts surrounding the incident itself, and the steps taken following the incident to prevent repeated or similar occurrences.

Whether it is an accident, injury, or disaster that occurs, there are usually forms required by state or federal statutes or regulations. Court leaders must train court staff in all requirements of reporting and documenting these incidents and be knowledgeable about the processing requirements for such forms.

Activity Eight – *Risk Management Process*: the purpose of the activity is to outline and plan risk management strategies that affect the workforce.

Section 9 – Employee Relations

Learning Objective

As a result of this section, participants will be able to:

9. Analyze a typical employee relations problem and determine a strategy for resolution.

9.1 The Motivating Component

Employee Relations involves the body of work concerned with maintaining employer-employee relationships that contribute to satisfactory productivity, motivation, and morale.

The most important part of any organization is its people. Employees have to work together and work well with management to perform effectively, and happy, motivated workers tend to be more productive. But working together is not always easy. The goal of a successful employee relations program is to increase employee satisfaction and maintain good morale among workers. Succeeding in this area will lead to greater success in achieving the court's goals, objectives, and the fulfillment of its mission.

Managing relationships in the workforce is challenging but must be undertaken in ways that keep the court functioning smoothly, avoiding and preventing problems before they occur, and handling them swiftly and effectively as they occur. Doing so ensures that employees are performing and interacting at their best. The court's employee relations philosophies will guide decisions made by the court leaders during the course of hiring and recruiting, compensating, training, coaching, counseling, disciplining, and terminating.

9.2 A Positive Court Culture

A court strategic plan, as it relates to personnel, should include the desire to create an environment that promotes positive, cohesive relations among employees and between employees and management, which balances the needs of employees with the needs of the court, and which increases employee engagement, productivity, creativity, and harmony.

- Fairness and Consistency in Applying Policies
Court leaders must strive for consistency in applying work rules and policies, such as during disciplinary actions, hiring and promotion practices, and with the use of seniority systems.
- Timely Identify and Address Problems
Court leaders should listen to employee complaints, admit when problems exist, and respond swiftly and appropriately. Court leaders who address problems efficiently and fairly send a message to employees that they care about what is happening in the workplace and demonstrates acceptance of established standards of behavior and performance.
- Communication, Communication, Communication
Often poor communication with court employees will lead to a perception that management does not consider employees in its decisions. Employees will not understand the reasons for certain decisions and will fill the void of non-information with false assumptions unless the court leader routinely communicates its rationale for decisions and provides information on a continuous and consistent basis that leads to trust and respect between employees and the court leader.

D. Responsiveness –

The court leader must not delay in responding to inquiries or questions from employees or supervisors, lest they appear disinterested and uncaring. Even news that is unwelcome is better received than a feeling of being ignored. Acknowledging receipt of the issue in question and providing a projected timeline for resolution can go a long way in showing an employee a level of responsiveness they crave.

E. Employee Participation –

Court leaders should seek to give employees some control and input into workplace issues that affect their satisfaction and performance. They need to have a voice and a stake in what happens in the court. This leads to employees becoming empowered and being vested in the success of reaching the goals of the court.

F. Appearance of Equity in Pay Structure –

Court leaders need to be able to respond appropriately to employee concerns about any perception of inequity of the pay structure within the court. A court leader that can explain the rationale, philosophy, and constraints involved in pay plans will contribute towards a workforce that trusts the pay actions that are taken in an equitable manner.

G. Supervisor Performance –

Research has shown that one of the primary reasons an employee leaves an organization is due to their relationship with their immediate supervisor. Court leaders must take the time to train and coach supervisors in effective management of staff and performance, including relationship building, and promptly address any deficiency in a supervisor's performance that does not meet the expectations and requirements for good employee relations.

9.3 Conflict Resolution

Conflict among employees is a naturally occurring element in any organization and courts are no exception. It is something that must be addressed and addressed as early on in the conflict as possible. If this does not occur, it can be extremely costly, both in manpower hours of the court leader involved in addressing the consequences of the conflict, and the lost productivity of the workers involved in the conflict. "It's an enormous drain on an organization," says Joseph Grenny, co-founder of VitalSmarts, a training and organizational development company in Provo, Utah, and co-author of *Crucial Conversations: Tools for Talking When Stakes Are High* (McGraw-Hill, 2011).

A. Areas Where Conflict Occurs

1. **Conflicting Priorities** – Oftentimes various departments or divisions of the court are competing for the same resources, whether it's budgets, personnel, or projects, or having different goals or plans when structural changes in management and personnel occur. Helping those managers and employees in conflict with one another see the big picture of what the court's overall strategy is will help defuse or prevent much of this type of conflict.
2. **Conflicting Perspectives** – A court that has a wide range of differences in age, gender, race, ethnicity, or personality types will tend to experience conflict among employees due to differing perspectives. Coming from different backgrounds and generations naturally lead to conflicting views and perceptions of what is being seen in the workplace by various workers. Court leaders must find ways to bring people together and find ways for all to see various

viewpoints, so that differences can be exploited for the benefits they can bring and workers understand the various viewpoints and perspectives.

- 3. Conflicting Assumptions** – Misinterpreting another’s intentions tends to drive the most conflict among workers. A worker with one personality type, who would respond one way in a situation, will often make an erroneous assumption about the motive behind another worker who responds in a way different from them, but for which their personality drives. Encouraging employees to avoid making false assumptions and to talk to one another about the issue before reacting negatively can lead to less conflict.
- 4. Conflicting Tolerances** – Employees can have different tolerance levels for conflict and the disagreement one employee allows to fester for a period of time, another will blow up when they get to the boiling over point quicker. “If you don’t talk it out, you act it out,” Grenny warns. The shorter the time between identifying the problem and discussing it, the better, both from a productivity standpoint and an employee engagement realm.

Steps to Resolving Conflict

The court leader should be familiar with, or employ the services of, a human resource manager who is knowledgeable and experienced in handling conflict resolution, using the recommended steps outlined below.³

10 Steps to Resolving Conflict

1. Schedule a meeting to address the problem preferably in a neutral place.
2. Set ground rules. Ask all parties to treat each other with respect and to make an effort to listen and understand others’ views.
3. Ask each participant to describe the conflict, including desired changes. Direct participants to use “I” statements, not “you” statements. They should focus on specific behaviors and problems rather than people.
4. Ask participants to restate what others have said.
5. Summarize the conflict based on what you have heard and obtain agreement from participants.
6. Brainstorm solutions. Discuss all the options in a positive manner. Rule out any options that participants agree are unworkable.
7. Summarize all possible options for a solution.
8. Assign further analysis of each option to individual participants.
9. Make sure all parties agree on next steps.
10. Close the meeting by asking participants to shake hands, apologize, and thank each other for working to resolve the conflict.

Activity Nine – *Employee Relations Scenario*: the purpose of the activity is to analyze an employee relations problem and determine the appropriate solution.

9.4 Employee Satisfaction

The court’s responsiveness to employee relations issues can lead to higher retention rates, lower absenteeism, improved productivity, better customer service, and higher employee morale. A significant part of this process involves employee satisfaction, which can be measured in a variety of ways.

³ From the Society for Human Resources Development.



The court leader must always be cognizant of the pros and cons of using some of these methods. For example, the use of employee satisfaction surveys can have the opposite effect on employee morale if senior management is not fully committed and ready to listen to and, most importantly, act on what employees are saying. If that commitment and follow through is not there, then conducting the survey can falsely raise expectations among employees, leading to an employee relations disaster. Conversely, the court leader who responds to employee feedback and addresses the factors revealed in surveys that cause employee dissatisfaction will send the message to court staff that he/she listens to employees and responds appropriately, thereby increasing employee morale and employee relations between workers and court leaders.

9.5 Relationship Management and Development

Succeeding in creating a positive court culture aids the court leader in attracting and recruiting quality employees and in retaining high performing employees. A court leader must be able to demonstrate a commitment to employees and the ability to sustain a positive workforce culture. Other than pay and promotion, court leaders can demonstrate this commitment through words and deeds in a number of ways:

- Employee recognition programs – if done right, can be a great motivator to employees
- Non-monetary perks – things like flex time and casual dress days
- Project Assignments – assignment to lead a specific project or initiative, especially if the project or initiative idea comes from that employee
- Team decision making – allowing employees to be involved in decisions that affect their job will result in empowering staff, and leads to employees contributing to the successful accomplishment of goals of the court
- Involving employees in problem solving – through delegation and through group assignments or committees. Involved employees usually have more positive attitudes about their job if they see they have input in improving some area

9.6 Employee Conduct

Employee Relations, by its nature, requires the court leader to respond to a myriad of instances involving the conduct of employees.

A. Role of the Court Employee

It is critical to properly onboard new employees to the court environment to ensure they are orientated to the unique employment experience of working for the judicial branch of government and, as is often the case, working with elected officials. Knowing what is expected of them and what to expect from the organization is important to ensuring acceptable employee conduct, which contributes to successful employee relations.

B. Code of Conduct

Employees should be expected to conduct themselves in a manner that is not unbecoming of a court employee. Having a model code of conduct that they are subject to that contains language related to how employees interact with each other, will assist in preventing conflict or addressing the unacceptable conduct between employees that may occur. Court leaders can create model codes of conduct by adapting and using those created by the National Association for Court Management, their state supreme court or administrative office of courts, or those created and used by other courts.

C. Ethical Requirements

Court employees are public employees and therefore subject to governmental ethics laws. Educating court staff on proper ethical behavior and providing regular training classes that address what is and is not acceptable ethical conduct, will help prevent employee conduct that can lead to a detrimental impact on the workforce and court operations.

D. Policies and Procedures

The court leader who has appropriate policies and procedures adopted and signed off by employees has a strong tool in the supervisor's box for addressing inappropriate behavior and actions by court employees that often lead to employee relations issues.

E. Employee Handbooks

Court leaders should ensure that language in employee handbooks does not conflict with established policies and procedures that govern employee behavior. Policies and procedures that are consistent and for which employees are treated similarly are essential to staving off legal action. Successful legal challenges may arise following adverse employment actions that have occurred where policies and procedures conflict and when similar conduct by employees is treated differently.

F. Disciplinary Action

Workplace conduct rules should provide for the application of disciplinary action when rules are violated, including inappropriate employee conduct. Court leaders who have mechanisms in place for ensuring swift and consistent disciplinary action is imposed where warranted, will be successful in many employee relations issues. Division managers across the organization must be aligned with executive expectations on employee behavior and conduct discipline in a consistent manner. When employees feel they are treated differently for behavior exhibited by employees in other areas of the court, conflict can arise that has a detrimental effect on employee relations.

Section 10 – Organizational Change Management

Learning Objective

As a result of this section, participants will be able to:

10. Identify a needed business process or organizational change and create a plan for successful change management.

10.1 The Transitional Component

As the old proverb goes, “the journey of a thousand miles begins with a single step.”⁴ Change in any organization involves many steps and sequences to move, or transition, from one reality to another.

Change management is the systematic approach and application of knowledge, tools, and resources to deal with that change. It requires managing the people side of the organization and involves the learning of new behaviors and skills and successfully transitioning to the desired vision. The primary goal of change management is to successfully implement new processes, functions, and strategies while minimizing negative results.

We either manage change or it manages us. Court staff are looking to the court leader to successfully navigate them through changes that occur, either externally caused or internally created. Having a solid strategy for managing the change the workforce encounters can go a long way towards successful outcomes and avoiding problems that can occur from mismanaging the change.

A. Successful Organizational Change Management Strategies

1. Agreement on a common vision for change – no competing initiatives.
2. Strong executive leadership to communicate the vision and sell the business case for change.
3. A strategy for educating employees about how their day-to-day work will change.
4. A concrete plan for how to measure whether or not the change is a success – and follow-up plans for both successful and unsuccessful results.
5. Rewards, both monetary and social, that encourage individuals and groups to take ownership for the new roles and responsibilities.⁵

B. Why Is Change So Difficult?

Fear of the unknown is emotional and a process rather than an event. It is human nature to seek and cling to routines as we come to believe that is the most appropriate and workable approach based on conditions and considerations at the time the routine was developed.

C. Purpose of Change

Change in the court can be something the court leader initiates because of a desire or need to improve upon a process or function of the court, or can be caused by something beyond their control. If the former, the court leader may focus on effectively conveying

⁴ Lao Tzu.

⁵ Rouse, M. (Nov. 2009). Organizational Change Management Definition. Available at <http://searchcio.techtarget.com/definition/organizational-change-management-OCM>.

to their team that the new world they are trying to create is better than the one they are in. It takes planning, commitment, patience, and courage.

D. Inspiring Court Leader

The court leader must have the ability to inspire the workforce to leave their comfort zone, and assure them that the new path is the right path. They need to have the willingness and courage to point out the problem – what really needs to be changed.

10.2 The Varied Changes

Changes in the courts come in many forms and can be internally created or caused by external factors. Court leaders can willingly initiate change after an examination of problems or issues that suggest a change is needed, or will have to deal with changes caused by forces outside their control. For the former, court leaders must evaluate and gauge the readiness for change in the court workforce and strategize to successfully implement change while overcoming the inevitable resistance to change by the workforce.

A. Leadership Change

A change in leadership can come in many forms including a change in the administrative/presiding judge, the court administrator or court leader, division manager, or supervisor. Each of these changes brings its own unique issues, but one thing is common – the workforce is looking to see how it affects them, both from a work perspective and from a relationship perspective. Can they trust the new leader, what expectations will they have, and is the new leader someone that they can follow?

B. Changes in Laws and Regulations

Courts must deal with changes in laws and regulations that occur from each legislative session and political or regulatory initiatives. Being prepared for possible changes in laws is crucial. One way this can be accomplished is through monitoring of legislative sessions and regular discussions with city, county, or state public officials. Being prepared for such changes allows the court leader to prepare the workforce for those possible changes by establishing, in advance where possible, new protocols, new processes, or programming changes, either in technology or in business processes.

C. Changes in Policies and Procedures

The court leader implementing changes in policies and procedures should communicate not only the change that is occurring, but the reason for the change. Additionally, the court leader must align the entire management team with regard to changed policies and procedures and take steps to ensure they are carried out consistently and uniformly across the board. Successful implementation of changed policies and procedures is dependent upon getting feedback and input ahead of time from those who will be impacted by the change. Division managers and front line staff that are charged with carrying out new policies and procedures know best how a change will impact operations. Not only is it best to seek and consider their impact in order to successfully change the process, but it gives those impacted ownership of the change and buy-in that is crucial in preventing negative consequences from occurring.

D. Changes in business processes

Although many basic functions of court operations are uniform across judicial systems, each court operates with its own unique business processes dependent upon the laws,

regulations, policies, and procedures required and influenced by governmental structure, legal requirements, administrative protocols and established practices and preferences of the court leaders and judges. A number of things can be the impetus for a change in business process and often can be caused by a factor beyond the control of the court leader. Being successful in other change management instances, for which the court leader does have control, will lead to a trust factor by the workforce when change is mandated and not within the control of the court leader. Staff will follow along more willingly with the changes required if they know that the court leader is working to lessen the negative impact of change whenever he/she can.

E. Changes in Affiliated Agencies

Often the players involved in the judicial branch of government change and the justice partners that once were accommodating, may no longer have the same collaborative spirit. It is imperative that the court leader early on work with the affiliated agency leaders and develop a relationship of cooperation and mutual respect. The court staff that must work with the staff of the affiliated agencies depend highly on the justice partners working well together and having common goals, or at least respecting each other's roles and cooperating if not collaborating.

F. Changes in Funding/Economy

Budget constraints caused by revenue shortfalls or impacted by a downturn in the economy or other reasons, can cause changes in the court that impact staff. Layoffs or hiring freezes result in more work being performed by existing staff. This can cause stress that leads to employee relation problems or deterioration in performance because of work overload issues. The court leader must prepare the staff for any known downturns in advance and find ways to encourage staff. Examining work tasks and responsibilities to determine what tasks might not be essential or what functions can be combined, will lessen the workload. The court leader can research ways to increase revenue streams through grant funding or by other means that have proven successful by other courts, that can assist in the revenue shortfall issue. Keeping staff apprised of the efforts to lessen the impact on them and relieve their fears, is critical to ensuring you retain the staff you have and a mass exodus of knowledgeable and skilled employees does not occur, due to a fear of what to expect.

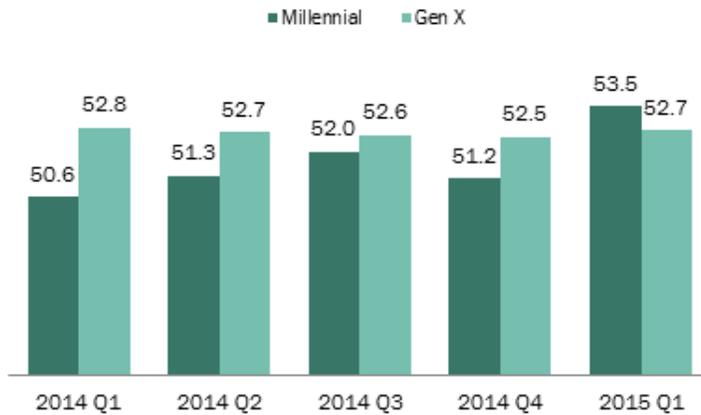
G. Changes in the Workforce –

A change in the make-up of the workforce can lead to challenges for court leaders and long-term employees. This can include generational differences that occur from staff hiring, personality differences, lower or higher skilled workers resulting from changes in the current labor market available to the court from which to hire. Most organizations are experiencing a workforce of at least three different generations, from Baby Boomers, to Generation X, to Millennials. According to the Pew Research group, 34% of the workforce is now made up of Millennials, more than any other generation group. For the first time, Millennials make up the greatest number of the workforce.⁶

⁶ Millennials are now the largest labor force. Pew Research Center. Available at <http://www.pewresearch.org/fact-tank/2015/05/11/millennials-surpass-gen-xers-as-the-largest-generation-in-u-s-labor-force/>.

Millennials Are Now the Largest Labor Force

In millions



Note: Labor force refers to those working and looking for work. Millennials refers to labor force participants ages 18 to 34 in 2015. Gen X refers to the labor force participants ages 35 to 50 in 2015. Based on quarter averages.

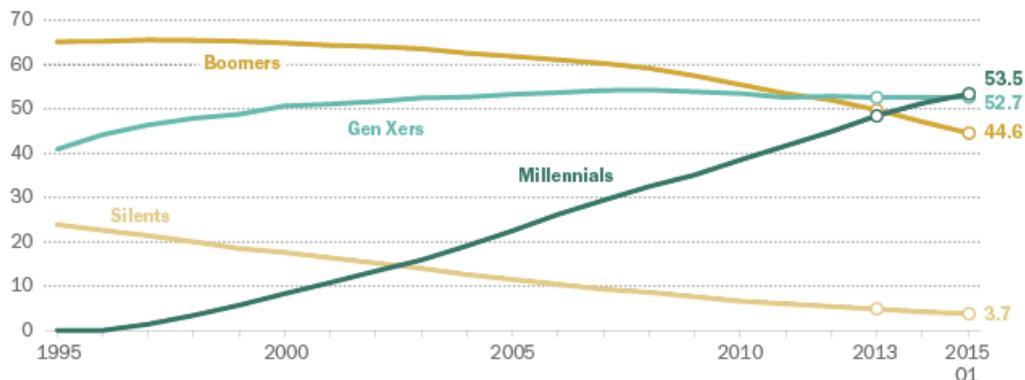
Source: Pew Research Center tabulations of monthly 2014 and 2015 Current Population Surveys, Integrated Public Use Microdata Series (IPUMS)

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The generational shift in the workforce in the last ten years can invariably lead to changes that the court leader must recognize and anticipate. Managing the workforce where Baby Boomers and Millennials co-exist, and where the Generation X group is sandwiched in between, can be challenging, but court leaders who learn how the different generational groups think and work best, can provide the solutions to employee relation problems and can also take advantage of the strengths of each generation can offer to the organization as a whole. It is vital to keep in mind, however, that individual staff members may or may not exhibit the traits of their generational cohort. Thus, the court leader must balance overall workforce characteristics with managing staff as unique persons (see Section 3, Performance Management, above).

U.S. Labor Force by Generation, 1995-2015

In millions



Note: Annual averages plotted 1995-2014. For 2015 the first quarter average of 2015 is shown. Due to data limitations, Silent generation is overestimated from 2008-2015.

Source: Pew Research Center tabulations of monthly 1995-2015 Current Population Surveys, Integrated Public Use Microdata Series (IPUMS)

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- H. Technology Changes –
Technology is changing and improving faster than ever before, which leads to more public demand for faster service, more access to information online, and new ways of transacting court business. Court leaders must answer the call and respond to the expectations of court users and the public. They must adapt to these changing demands by hiring staff who are technology savvy, maintain a staff of technical expertise, and strategically plan for technology projects, all of which require managing change at a faster pace than ever before. Public entities often lag behind the private sector in technology advances in the work place, so recruiting for technology positions and keeping pace with the cost of technology is vital. Keeping staff on board with the fast pace of changes dictated by technology can be a challenge, but here’s where one of the areas the increased number of Millennials (or “digital natives”) in the workplace can be an advantage. Using staff members from that generational group to champion the change strategies in this area is essential.
- I. Political Changes –
With any public organization, politics can be a source of change, from a newly elected judge, clerk, or court leader, to a newly established political make-up of the funding agency for the court. Court leaders must prepare staff for changes resulting from a change in the political make-up of the court or outside affiliated agencies, and insulate when necessary and where possible.
- J. Changes in Public Perceptions and Expectations –
Public perceptions and expectations can lead to needed changes. The court leader can learn what the public expects through surveys and comments received from court users, the local bar, judges, and the media. Responding to changing expectations from these groups in a timely manner is critical to ensuring public trust and confidence. Driving the changes necessary to respond to public expectations will require added training of court staff to remind them of the purposes and responsibilities of courts and what is expected of the workforce to continue to carry out the mission of the court.
- K. Restructuring –
Courts can experience change with restructuring that is prompted by program changes or new initiatives that are both willingly implemented and those that are forced upon the court through mandates from funding agents or other outside forces. Examples include new judgeships being created or judgeships being eliminated, development and implementation of specialty courts or other special programs, and aligning the workforce with personnel changes that are required by a number of factors.

10.3 Strategy for Managing Change

A court leader who wants to successfully manage change in their court environment should develop a change strategy that includes a communication plan, a road map for change sponsors, integrated training programs, and a plan for dealing with resistance.

John Kotter, Harvard Business School Professor and author of the books, *Leading Change* and *The Heart of Change*, prescribes the following stages of managing change:

- A. Establish a Sense of Urgency
Whether an expected or anticipated change is about to occur, or one is suddenly thrust upon the organization, the court leader should immediately communicate the potential or existing change and encourage a frank discussion throughout the court system. Creating a sense of urgency that the status quo is no longer acceptable, is essential to obtaining cooperation and energy from the workforce that is necessary to quickly adapt to the change.
- B. Create the Guiding Coalition
Court leaders should work to establish a group to lead the change. The members of this group should be those with sufficient authority, expertise, credibility, and leadership, as well as effective management capabilities. Finding staff members that are trusted and skilled, and who can champion the vision for change is essential to building buy-in and a willingness of the staff to follow along in the change rather than resist.
- C. Develop a Vision and Strategy
The coalition that is built should agree on a clear vision, motivate staff to take appropriate actions, and coordinate workers' actions. An effective vision must be imaginable, desirable, feasible, focused, flexible, and communicable. This can take time to create and can have its challenges, but the court leader must be able to effectively guide the creation of this shared vision and provide clear direction for the future upon which all can be on board.
- D. Communicate the Change Vision
Members of the guiding coalition should provide extensive communication about how the change will improve operations and in turn how that will benefit the employees. Key elements of the communication of the change vision are simplicity, use of examples, multiple forums, repetition, explanation of apparent inconsistencies and two-way communication. The coalition members should model the behavior that is expected of employees. Offering encouragement along the way is essential.
- E. Empower Employees for Broad-Based Action
Court leaders should identify and remove obstacles in order to support the change and act on the vision. Possible obstacles could involve formal structures that make it difficult for employees to act, a lack of required skills, personnel or information systems, and supervisors who discourage actions toward implementing the new vision. Court leaders can navigate through some of these obstacles through increased training, focus group meetings with staff, firm expectations being set for non-compliant supervisors, and implantation of technology changes that lessen the impact of certain procedural or process changes.
- F. Generate Short-term Wins
Court leaders should find opportunities to celebrate early successes and visible improvements. This will keep the sense of urgency present and serve to encourage continued efforts toward the change vision. Court leaders can recognize and reward those employees and supervisors who made the accomplishments possible. Focusing on and celebrating the short-term wins provide the visibility to staff of the results that are related to the change effort.
- G. Consolidate Gains and Produce More Change
Until major changes are embedded in the culture of the court, they are vulnerable to resistance and regression. It is important to use the early gains and successes as a foundation for larger challenges. Consolidating the many gains by hiring, promoting, and developing

employees who can implement the changes and the vision is a solid step in cementing the changes.

H. Anchor New Approaches to the Culture

Kotter's final stage in his model for successful change is to link the changes to two key components of the organization's culture – norms of group behavior and shared values.

Methods for doing so can include:

1. Creating better performance through customer and productivity oriented behavior, more and better leadership, and more effective management;
2. Articulating the connections between new behaviors and organizational success
3. Developing means to ensure leadership development and succession

10.4 Managing Impediments to Change

The two main obstacles in managing change are (1) employee resistance and (2) communication breakdown.

It's human nature to resist change. By our nature, people generally love routine and are resistant to things that take us out of our routine or out of our comfort zones. A survey by the talent and career management firm, Right Management, found that nearly one-third of employees are simply unable to adapt to changes at work.⁷

Court leaders should have a strategy for dealing with change resistance. This could include:

- Developing strong champions for change among trusted and skilled supervisors and staff
- Building alliances among divisions or other justice partners involved in the change
- Developing tools and information for front-line supervisors and managers to encourage and reward cooperation and collaboration in the change vision
- Coaching employees as needed to assist in their adapting to the changes
- Rewarding desired behavior and addressing undesirable behavior and negativity

Court leaders should take steps to prevent communication breakdowns, such as:

- Communicate the change early and convey the reasons the change is necessary
- Communicate often and in various forms, such as emails, meetings, and training sessions
- Use various sources of communication to staff such as the court administrator/manager, division managers, staff who are part of the change coalition that was developed

10.5 Measuring Success of Change

The barometer for measuring successful change management centers on whether the mission of the court is being fulfilled and whether performance and employee engagement remains high. An engaged workforce is an indicator of successful change management in that it represents the willingness of the employees to transition from one reality to another and trust the leadership of the court to bring them there without a negative impact.

Studies have shown that where employees reported that change was not handled well in their organization, they were overwhelmingly likely to be more disengaged. But where employees

⁷ <http://www.shrm.org/hrdisciplines/orgempdev/articles/pages/changeaverse.aspx>.

reported that leadership managed change effectively, 60% were engaged. Organizations that did not manage change well were four times more likely to lose talent and were less able to attract new talent. Employee satisfaction surveys and feedback from frontline supervisors can assist the court in determining how engaged the workforce is.

Court leaders must ensure that each level of the workforce learns how to respond to and manage change. The ultimate strategy of the court leader should be to involve all levels of the court workforce, the executive team that drives the change, middle management who work with and help the employees directly, and the employees who are responsible for implementing the change. All levels of the workforce must be aligned to bring about successful change management and transition to a better future.

Activity Ten – *Starting a Veteran’s Court – Change Management Strategy*: the purpose of the activity is to learn to create a strategic plan for managing an organizational change that affects the workforce.

Faculty Resources

Faculty Resources are intended to be used as references and illustrations of content, methodology, and purpose for each topic. Faculty resources are annotated in the content outline in places where their use may be most effective. Faculty for a course based on this curriculum design may have supplemental resources that would be useful to court leaders. These faculty resources are not intended to be the only participant materials; they are intended to provide some materials that are considered vital to the content.

Section One

Workforce Management's Role in the Court

Section Three

Sample Performance Appraisal Document

Section Seven

Threat Component

Section Eight

10 Steps to Resolving Conflict

Employee Satisfaction

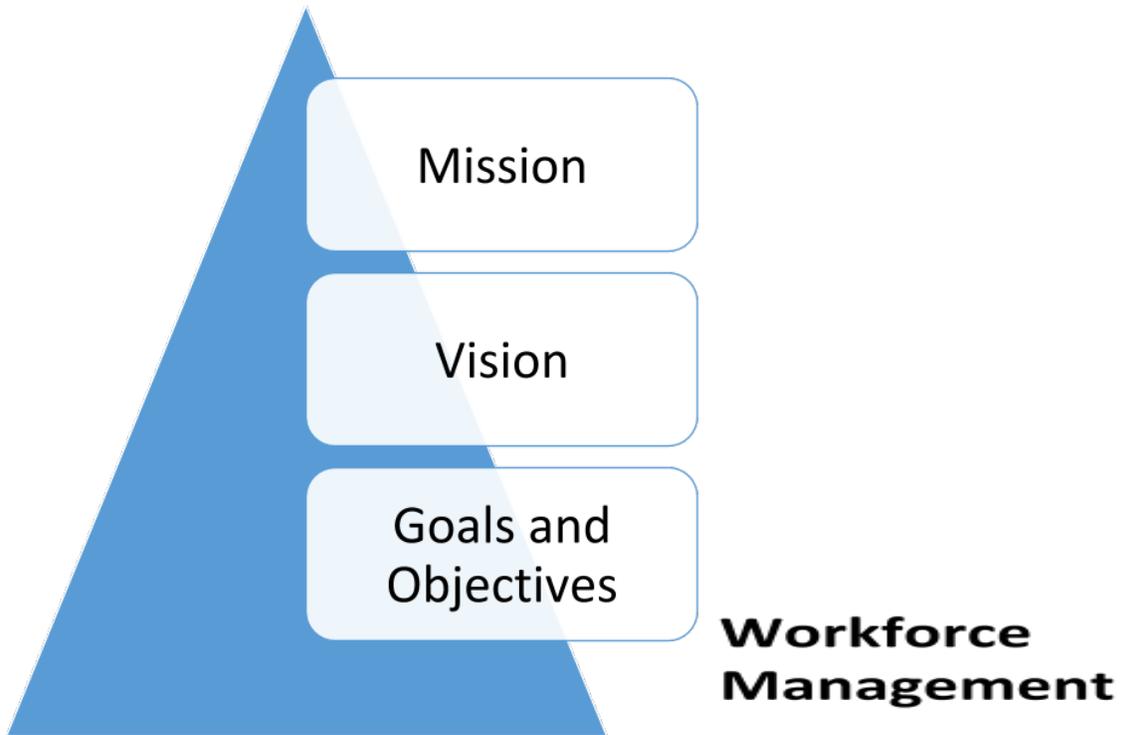
Section Nine

Millennial Are Now the Largest Labor Force

U.S. Labor Force by Generation, 1995-2015

Section One

Workforce Management's Role in the Court



Section Four

Sample Performance Appraisal Document

Hourly Performance Appraisal			
Employee Name: _____	Job Title: _____		
Date of Hire: _____	Department: _____ Supervisor: _____		
Annual Review <input type="checkbox"/>	90 day Review <input type="checkbox"/> Review Period: From _____ To _____		
<p>Purpose: The purpose of conducting the Performance Appraisal is to: Develop better communication between the employee and the supervisor; Improve the quality of work; Increase productivity; and Promote employee development.</p> <p>Performance Rating Categories: Consider the employee's performance in each category and designate the level of performance that most accurately describes his/her job performance.</p> <table style="width: 100%;"><tr><td style="width: 50%; vertical-align: top;"><p>O – Outstanding. Employee consistently exceeds position expectations with virtually no detected preventable/controllable errors, requiring little or no supervision.</p><p>E – Exceeds Expectation. Results clearly exceed position requirements on a regular basis. Performance is of high quality and is achieved on a consistent basis.</p></td><td style="width: 50%; vertical-align: top;"><p>M – Meets Expectation. Competent & dependable performance level. Meets the performance standards and objectives of the job without constant follow-up / direction.</p><p>I – Improvement Needed. Employee does not meet performance objectives on a regular basis and has difficulty following through with tasks. Requires constant follow-up and / or supervision.</p><p>N/A – Not applicable or too soon to rate.</p></td></tr></table>		<p>O – Outstanding. Employee consistently exceeds position expectations with virtually no detected preventable/controllable errors, requiring little or no supervision.</p> <p>E – Exceeds Expectation. Results clearly exceed position requirements on a regular basis. Performance is of high quality and is achieved on a consistent basis.</p>	<p>M – Meets Expectation. Competent & dependable performance level. Meets the performance standards and objectives of the job without constant follow-up / direction.</p> <p>I – Improvement Needed. Employee does not meet performance objectives on a regular basis and has difficulty following through with tasks. Requires constant follow-up and / or supervision.</p> <p>N/A – Not applicable or too soon to rate.</p>
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I. GENERAL FACTORS			
<p>1. Quality – The extent to which an employee's work is completed thoroughly and correctly following established process & procedures. Required paperwork is thorough and neat.</p> <p style="text-align: center;"><input type="checkbox"/> Outstanding <input type="checkbox"/> Exceeds Expectations <input type="checkbox"/> Meets Expectations <input type="checkbox"/> Improvement Needed</p> <p>Specific Examples / Comments: _____</p> <hr/> <hr/>			
<p>2. Productivity / Independence / Reliability - The extent to which an employee produces a significant volume of work efficiently in a specified period of time. Ability to work independently with little or no direction/ follow-up to complete tasks / job assignment.</p> <p style="text-align: center;"><input type="checkbox"/> Outstanding <input type="checkbox"/> Exceeds Expectations <input type="checkbox"/> Meets Expectations <input type="checkbox"/> Improvement Needed</p> <p>Specific Examples / Comments: _____</p> <hr/> <hr/>			
<p>3. Job Knowledge - The extent to which an employee possesses and demonstrates an understating of the work instructions, processes, equipment and materials required to perform the job. Employee possesses the practical and technical knowledge required of the job.</p> <p style="text-align: center;"><input type="checkbox"/> Outstanding <input type="checkbox"/> Exceeds Expectations <input type="checkbox"/> Meets Expectations <input type="checkbox"/> Improvement Needed</p> <p>Specific Examples / Comments: _____</p> <hr/> <hr/>			
<p>4. Interpersonal Relationships / Cooperation / Commitment – The extent to which employee is willing and demonstrates the ability to cooperate, work and communicate with coworkers, supervisors, subordinates and/or outside contacts. Employee accepts and responds to change in a positive manner. Accepts job assignments and additional duties willingly, takes responsibility for own performance and job assignments.</p> <p style="text-align: center;"><input type="checkbox"/> Outstanding <input type="checkbox"/> Exceeds Expectations <input type="checkbox"/> Meets Expectations <input type="checkbox"/> Improvement Needed</p> <p>Specific Examples / Comments: _____</p> <hr/> <hr/>			
<p>Continued on back →</p>			

5. **Attendance** – The extent to which an employee is punctual, observes prescribed work break/meal periods and has an acceptable overall attendance record. Employee's willingness to work overtime as required.

Outstanding Exceeds Expectations Meets Expectations Improvement Needed

No. Unexcused Absences: _____ No. Unexcused Tardies: _____

Specific Examples / Comments: _____

6. **Initiative/ Creativity** – The extent to which an employee seeks out new assignments, proposes improved work methods, suggests ideas to eliminate waste, finds new and better ways of doing things.

Outstanding Exceeds Expectations Meets Expectations Improvement Needed

Specific Examples / Comments: _____

7. **Adherence to Policy** – The extent to which the employees follows company policies, procedures and work conduct rules. Complies with and follows all safety rules and regulations, wears required safety equipment.

Outstanding Exceeds Expectations Meets Expectations Improvement Needed

Specific Examples / Comments: _____

8. **Lead (if applicable)**– The extent to which the employee demonstrates proper judgment and decision-making skills when directing others. Directs work flow in assigned areas effectively to meet production / area goals.

Outstanding Exceeds Expectations Meets Expectations Improvement Needed

Specific Examples / Comments: _____

Overall Performance – Rate employee's overall performance in comparison to position duties and responsibilities.

Outstanding Exceeds Expectations Meets Expectations Improvement Needed

II. Complete All of the Following Sections

1. Accomplishments or new abilities demonstrated since last review: _____

2. Specific areas of needed improvement: _____

3. Recommendations for professional development (seminars, training, schooling, etc.): _____

Employee's Comments: _____

Discussed/reviewed with employee on: _____ Follow up requested/desired: YES NO

Manager/Supervisor Signature: _____ Date: _____

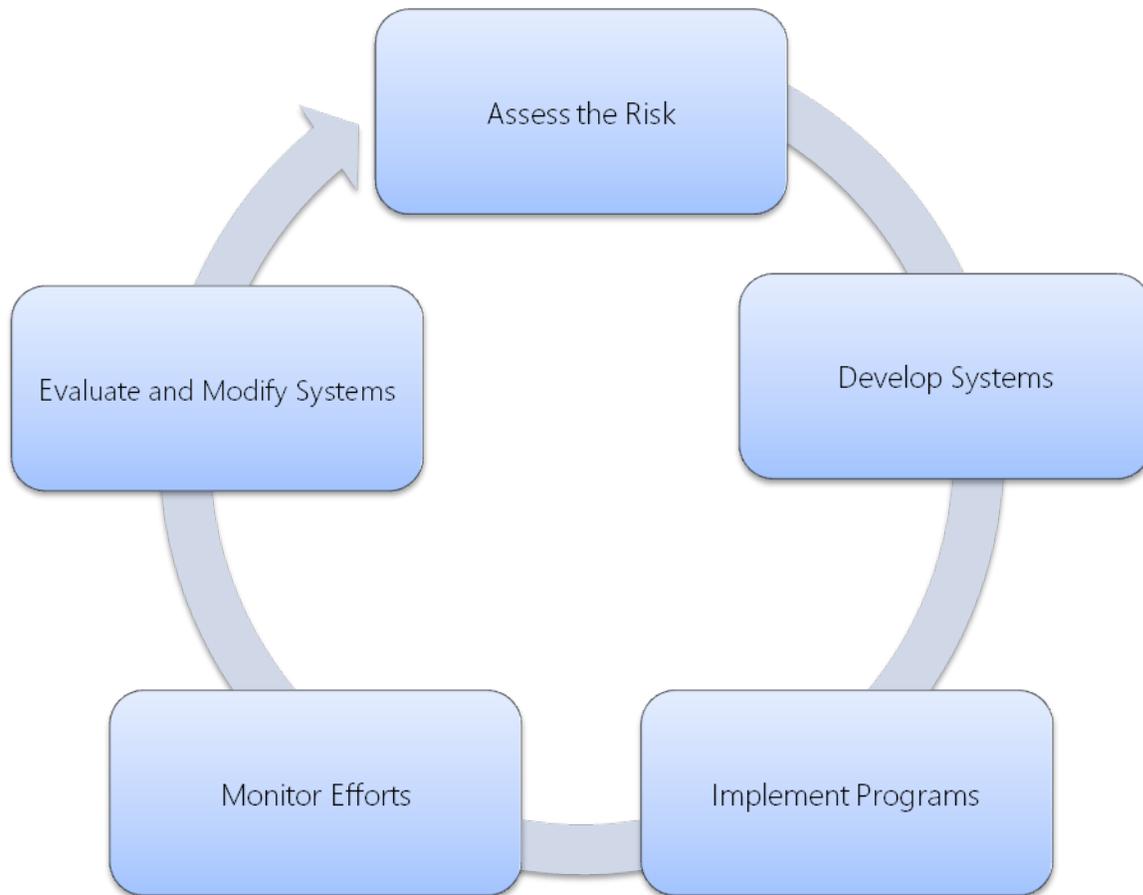
Employee Signature: _____ Date: _____

Performance Evaluation (Full Performance)	
Name:	
Job Title:	Dept.:
Current CPS or JSP grade/level:	Current Salary:
Evaluation Period from _____ to _____	
<input type="checkbox"/> Annual review <input type="checkbox"/> Other (state reason) _____	
Topics	Check When Complete
1. Discuss employee's primary duties since last evaluation ➤ <u>review</u> position description/job responsibilities and performance standards	<input type="checkbox"/>
2. Discuss strengths and areas for growth ➤ <u>review</u> of last evaluation ➤ <u>discuss</u> employee's responses on the self-assessment form and suggestions for the supervisor ➤ <u>discuss</u> supervisor's assessment of the employee's performance ➤ <u>reconcile</u> , if needed, differences between employee and supervisor	<input type="checkbox"/>
3. Discuss barriers to effective work performance and job satisfaction	<input type="checkbox"/>
4. Discuss possible work process improvements	<input type="checkbox"/>
5. Based on the outcome of discussion, ➤ <u>revise</u> position description/job responsibilities and performance standards, as needed ➤ <u>discuss</u> how they relate to the court's mission, vision, and values	<input type="checkbox"/>
6. Discuss Court Employee Competencies Framework, including employee's strengths and areas for growth	<input type="checkbox"/>
7. Discuss employee's development and training: ➤ over the past year (attach training report) ➤ work-related goals for the next performance period and plan to achieve ➤ personal/professional development goals and plan to achieve	<input type="checkbox"/>
8. Discuss other matters as desired	<input type="checkbox"/>

Supervisor Comment:	
<hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>	
Employee Comment:	
<hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>	
Performance level is:	
<input type="checkbox"/> AL = acceptable level <input type="checkbox"/> UL = unacceptable level (<i>performance enhancement plan attached</i>)	
New CL grade/step (if applicable):	New Salary: \$
Effective date (if applicable):	Next evaluation due:
Supervisor Signature:	Date:
Reviewer Signature:	Date:
Employee signature:	Date:
My signature indicates that this evaluation has been reviewed and discussed with my supervisor, and does not necessarily indicate agreement with its contents. By this notice I have been informed of my rights to appeal this evaluation by filing a grievance and to provide pertinent written comments to the evaluation for inclusion in my personnel file.	

Section Eight

Threat Component



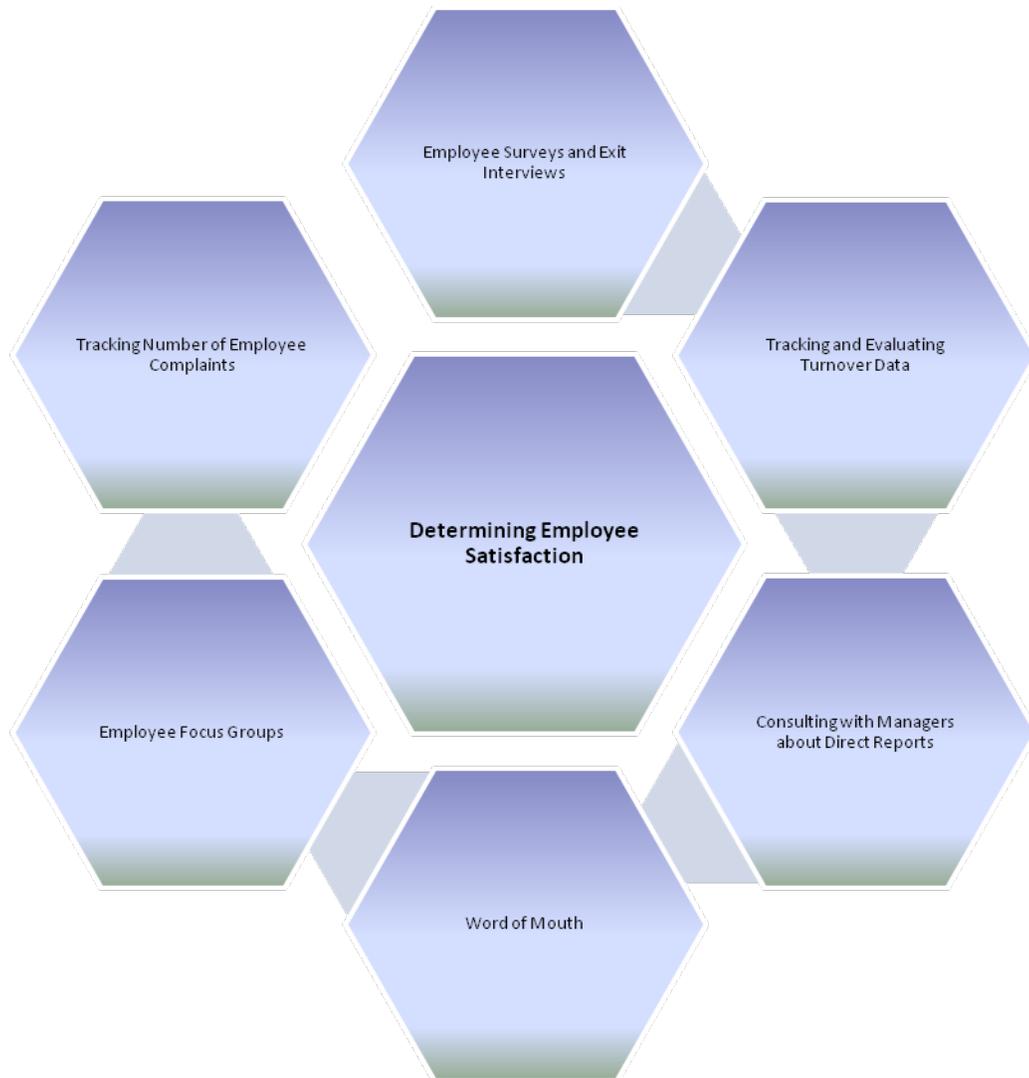
Section Nine

10 Steps to Resolving Conflict

10 Steps to Resolving Conflict

1. Schedule a meeting to address the problem preferably in a neutral place.
2. Set ground rules. Ask all parties to treat each other with respect and to make an effort to listen and understand others' views.
3. Ask each participant to describe the conflict, including desired changes. Direct participants to use "I" statements, not "you" statements. They should focus on specific behaviors and problems rather than people.
4. Ask participants to restate what others have said.
5. Summarize the conflict based on what you have heard and obtain agreement from participants.
6. Brainstorm solutions. Discuss all the options in a positive manner. Rule out any options that participants agree are unworkable.
7. Summarize all possible options for a solution.
8. Assign further analysis of each option to individual participants.
9. Make sure all parties agree on next steps.
10. Close the meeting by asking participants to shake hands, apologize, and thank each other for working to resolve the conflict.

Employee Satisfaction

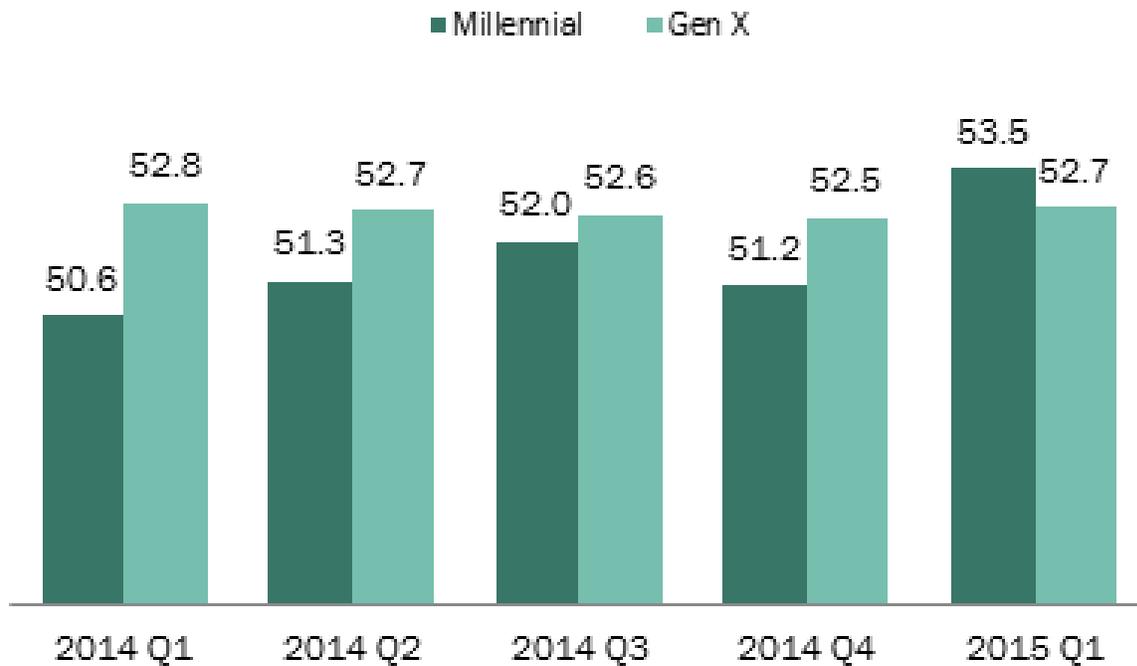


Section Ten

Millennials Are Now the Largest Labor Force

Millennials Are Now the Largest Labor Force

In millions



Note: Labor force refers to those working and looking for work. Millennials refers to labor force participants ages 18 to 34 in 2015. Gen X refers to the labor force participants ages 35 to 50 in 2015. Based on quarter averages.

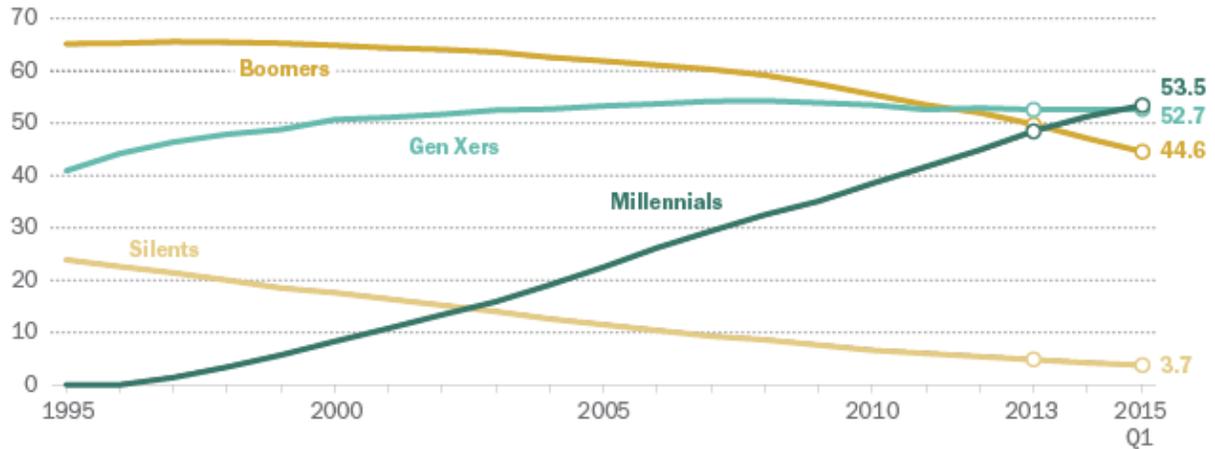
Source: Pew Research Center tabulations of monthly 2014 and 2015 Current Population Surveys, Integrated Public Use Microdata Series (IPUMS)

PEW RESEARCH CENTER

U.S. Labor Force by Generation, 1995-2015⁸

U.S. Labor Force by Generation, 1995-2015

In millions



Note: Annual averages plotted 1995-2014. For 2015 the first quarter average of 2015 is shown. Due to data limitations, Silent generation is overestimated from 2008-2015.

Source: Pew Research Center tabulations of monthly 1995-2015 Current Population Surveys, Integrated Public Use Microdata Series (IPUMS)

PEW RESEARCH CENTER

⁸ *Id.*

Participant Activities

The participant activities are one of the most important parts of the curriculum design as they are the tools faculty members are able to use to determine if participants have achieved the outcomes defined in the learning objectives. Also, participant activities provide tools to faculty to ensure that the training, course, or session is not only informative, but also interactive.

Participant activities are annotated in the content outline in places they may be effectively used. Each activity has a cover page explaining its purpose, the specific learning objective being measured, and how to use the activity. The activities themselves are on a separate page(s) for ease of duplication.

The following activities are to measure achievement of stated learning objectives. Faculty are encouraged to incorporate additional strategies to engage court leaders and keep them active during their educational experience, for example, asking questions about content before presenting it, having learners discuss content and provide feedback to faculty on their perspectives, and more.

Activity One – Workforce Management and the Court’s Vision and Mission

Learning objective: *Identify the components of workforce management and describe how they relate to the purposes and responsibilities of courts.*

Activity Two (a) and (b) –Job Analysis and Creating a Job Description

Learning objective: *Describe the various methods of job analysis and use those methods to create appropriate job descriptions and recruit qualified applicants for court positions.*

Activity Four (a) – Designing Performance Criteria

Learning objective: *Create a performance management appraisal system for court employees that produce a high performance work culture.*

Activity Four (b) - Minimizing Personal Bias in Performance Appraisals

Learning objective: *Understand the potential impact that implicit bias has on performance appraisals.*

Activity Five – Develop a Strategic Workforce Plan

Learning objective: *Develop a strategic workforce plan to address staffing needs for the court.*

Activity Six– Staff Training and Development

Learning objective: *Assess the education and training needs of the court to improve staff development and performance.*

Activity Seven – Developing Pay Scales

Learning objective: *Assess and recommend appropriate compensation and benefit structures.*

Activity Eight – Risk Management Process

Learning objective: *Evaluate potential areas of risk to court personnel and establish and implement policies to prevent or mitigate those risks.*

Activity Nine – Employee Relations Scenario

Learning objective: *Analyze a typical employee relations problem and determine a strategy for resolution.*

Activity Ten – Starting a Veteran’s Court – Change Management Strategy

Learning objective: *Identify a needed business process or organizational change and create a plan for successful change management.*

Activity One: Workforce Management and the Court's Vision and Mission

Purpose

The purpose of this two-part activity is to assist court leaders in developing a vision, goals, and objectives that work to fulfill the court's mission and how to align those with workforce management strategies.

Notes about Using the Activity

This activity can be facilitated as a full class activity or you can place the participants in small groups with a debrief after they have worked through the exercise. Provide the group with the sample court mission statement (Maricopa Juvenile Court) or use an example from your own court.

Ask the groups to develop a vision and specific goals and objectives that further that mission, and explain how it furthers the purposes and responsibilities of courts. Discuss how the employees of the court are involved and key to carrying out the mission and the goals.

Relevant Learning Objective

1. Identify the components of workforce management and describe how they relate to the purposes and responsibilities of courts.

Workforce Management and the Court's Vision and Mission

Using the Mission Statement from the Maricopa Juvenile Court (or your own mission statement), answer the following questions.

Maricopa Juvenile Court Mission Statement:

“The mission of the Juvenile Court is to fairly and impartially decide cases and administer justice through the comprehensive delivery of services to children and families, victims of crime and the community so that: children reach their full potential; victims of crime are restored; and families and the community function in the best interest of children.”⁹

1. As it relates to employees, develop a vision with specific goals and objectives that further the mission.
2. How does what you have developed further the purposes and responsibilities of the courts?
3. How are employees of the court key to carrying out the mission and goals of the court?

⁹ The Maricopa Juvenile Court Mission Statement was retrieved from <http://www.superiorcourt.maricopa.gov/SuperiorCourt/JuvenileCourt/mission.asp> on November 30, 2015.

Activity Two (a) and (b): Job Analysis and Creating a Job Description

Purpose

The purpose of this two-part activity is to identify the best approaches for job analysis for various court positions and be able to link job analysis with creating job descriptions for court positions.

Notes about Using the Activity

First Activity: Divide the students into small groups and give each group a particular court position for which a job analysis must be conducted. Provide each group with a different type of court position ranging from entry level clerical on up to upper level management or administrative/executive level. Examples of job positions are included with this activity. Have the students determine which method(s) of job analysis is best suited for their position and have them determine how best to collect that information and from whom. Have each group report on the job analysis approach for their position.

Second Activity: Provide the class with information collected from job analysis done for the chief deputy clerk. Provide the sample questionnaire completed by the job incumbent and information collected from observations. Brainstorm on essential and non-essential tasks and the required KSAOs. Alternatively, divide up the class into small groups and have them write a job description for a certain court position, such as Minute Clerk, based on information contained in the questionnaire and observations.

Relevant Learning Objective

2. Describe the various methods of job analysis and use those methods to create appropriate job descriptions and recruit qualified applicants for court positions.

Job Positions and General Description

Position: Minute Clerk

Description: Makes minute entries of court proceedings for all case types heard by a particular judge of the court. The court docket is provided by the Clerk of Court staff in advance of court as required by the individual judge. Responsible for ensuring accurate minute notations are entered for all case files. Coordinates and communicates with other justice partners in the courtroom, including court reporters, prosecutors, etc.

Position: Deputy Clerk (Civil Division)

Description: Receives civil case filings. Data enters case information into court computer system for all civil cases filed with the court. Processes pleadings filed on cases and transmits to serving agents. Prepares court docket for civil court and distributes civil papers to serving agents for the Court.

Position: Chief Deputy Clerk (Criminal Division)

Description: Supervises a staff of deputy clerks responsible for court dockets, maintaining the issuance and recalling of bench warrants, and for issuing subpoenas as requested by prosecutors and defense attorneys. Ensures case docketing procedures and policies are complied with.

Position: Fiscal Clerk

Description: Cashiering duties, consisting of collecting fines, fees, and costs assessed by the judge or specified fine schedule adopted by the Court. Disburses collected funds according to a defined allocation set by state law, local ordinances, and accounting methods prescribed by the funding agent for the court.

Position: Accounting Manager

Description: Oversees all fiscal responsibilities for the accounting division of the court regarding money collected for civil filing fees and costs, and criminal and traffic fines, fees, and costs. Reports to the Clerk of Court on fund collections and disbursements.

Position: Administrative Assistant

Description: Provides administrative support to the Clerk of Court, handling administrative detail and acting as liaison to other officials and agencies. Types correspondence and manages various projects and initiatives for the Clerk and Judges of the Court. Confidentiality required.

Position: Probation Officer

Description: Performs professional office and fieldwork in the supervision of a caseload of offenders sentenced by the Court in criminal cases, including DWI, domestic violence, and other misdemeanor and felony cases within the jurisdiction of the court. Interviews and counsels offenders, conducts assessments, and monitors compliance with post pre-sentence and post-sentence requirements. Prepares Presentence Investigation Reports for the Court, recommending sentencing of offenders, including conditions of probation, and sentencing alternatives.

Position: Computer Programmer/Systems Analyst

Description: Performs responsible technical work involving system design, system analysis, development of software programs, applications, databases, and reports. Responsible for documenting complex systems and individual analysis and effectiveness of systems. Communicates with end users and executive level personnel to determine programming needs and effectiveness.

Job Analysis

In your small group, review the job position you have been given and answer the following questions. Be prepared to share your answers with the class.

Job Title: _____

Which method(s) of job analysis is best suited for the position?

What information needs to be collected and from whom?

JOB CONTENT QUESTIONNAIRE 21st Judicial District Court

GENERAL INFORMATION

1. Please write **legibly** and use **blue ink OR** type directly into the form.
2. You are encouraged to make a copy of the JCQ for your records, but any such copy is a convenience copy and is **not** the official submitted JCQ. The official submitted JCQ is the original document containing original signatures submitted to the Personnel Administrator for the Court.
3. You may contact the Division of Personnel with any questions regarding this questionnaire at (222) 555-1234.

EMPLOYEE INSTRUCTIONS

1. Please complete the JCQ in your own words. You may receive assistance from your supervisor and/or other employees performing the same duties as you.
2. Complete the JCQ based upon your **permanently assigned duties**. Do not include duties assigned as part of a temporary upgrade.
3. After completing the JCQ, be sure to sign, date, and make a copy of the completed form for your records.
4. Forward your completed JCQ to your immediate supervisor.

IMMEDIATE SUPERVISOR INSTRUCTIONS

1. After receiving the employee's completed JCQ, carefully review the document for accuracy and completeness. You may **not** change any information the employee has provided.
2. Provide any additional information or clarification in the **Supervisor Review Section** of the JCQ.
3. Complete the **Supervisor Review Section** with information based upon the **permanently assigned duties** of the position. Do not include duties assigned as part of a temporary upgrade. Indicate any duties listed that are of a temporary nature in the "General Comments" area of the **Supervisor Review Section**.
4. Sign and date the form upon completion, and make a copy for your records.
5. Forward the document to the court Personnel Administrator.

1. Mail this **original** paper JCQ, containing all **original signatures**, to:

Division of Personnel
Classification and Compensation Section
21st Judicial District
Smalltown, LA 70709

EMPLOYEE SECTION

Complete this form in its entirety and do not leave sections blank unless they are not applicable to your position!

Please complete the JCQ in your own words. You may receive assistance from your supervisor and/or other employees performing the same duties as you.

PART 1 - PERSONAL DATA

1. Employee Name (Last, First, MI) Smith, JoAnna	2. Last 4 digits of SSN 4911
3. Employee Identification Number 234567	4. Current Job Classification Chief Deputy Clerk
5. Division of Court Criminal Division	6. Status (Classified/Classified-Exempt) Classified – Non-Exempt
7. Immediate Supervisor Name Lou, Betty	8. Immediate Supervisor Job Title Senior Deputy Clerk
9. Next Level Supervisor Name James, Jesse	10. Next Level Supervisor Job Classification Clerk of Court

PART 2 – PURPOSE OF YOUR POSITION

Write a brief statement describing the purpose of your job.
<p>I supervise a section of employees in the Criminal Division of the Court that prepare and manage court dockets for criminal cases filed with the court by the Prosecutor's Office. This section handles the issuance and recalling of bench warrants as ordered by the judges on the cases. This section is also responsible for issuing subpoenas on criminal cases as requested by the prosecutor or defense attorneys. I ensure the work of the staff in this section is processed timely and accurately and that the docket is prepared and submitted to the judges' office according to their required deadlines. I supervise four employees and handle personnel and work related issues that come up. I respond to requests from the Clerk and Judges related to case and docket information and provide a docket report each day.</p>

PART 3 - IMPORTANT AND ESSENTIAL DUTIES

In your own words:

- Describe the major duties you perform, starting with the most important.
- Describe your job duties as they exist now. Tell us what you are actually doing in the job.
- Please be objective and accurate. Try not to understate or inflate the job. Do not copy language from the class specifications.
- Base your responses on the **typical** duties and responsibilities of the job under **normal** conditions, not under unusual circumstances.
- Complete this section using only permanently assigned duties. Do not include duties assigned as part of a temporary upgrade.
- Use the frequency codes below to indicate how often you perform each duty.
(D) Daily, (W) Weekly, (B) Bi-Weekly, (M) Monthly, (Q) Quarterly, (S) Semi-Annually, (Y) Yearly
- Approximate Percentage of Time: Give your best estimate of the approximate percent of time that each duty represents. Use less than 5%, then 5% increments (5%, 10%, 15%, etc.) up to 100%.

Writing Duty Statements:

Duty statements should focus on primary, current, and usual duties and responsibilities of the position. Related or similar duties should be combined and written as one statement. Most jobs have between six and eight (6-8) major categories of responsibility.

Duty statements typically contain three parts: the *Verb*, the *Object*, and a *Purpose*.

Example:

Verb	Object	Purpose
Collects	financial data	to evaluate budget requests.
Example statement: I collect financial data to evaluate budget requests.		
Compiles	statistical data	for distribution to administrators.
Example statement: I compile statistical data for distribution to administrators.		
Drives	truck	to deliver fuel to various job sites.
Example statement: I drive a truck carrying motor fuel to various job sites.		

Describe your major duties here. You must include at least one duty statement:

Duty	Important and Essential Duties	Frequency Code	Approx. % of time
1	Supervise the work of four employees in section of Criminal Division and ensure work is timely and accurate, troubleshoot problems that occur and provide solutions; issue disciplinary action and conduct performance evaluations of section employees	D	50%
2	Review criminal court docket for accuracy and submit to criminal court judge along with court files	W	15%
3	Receive requests for subpoenas from Prosecutors and Defense attorneys, sort subpoenas by judge, and distribute to staff responsible for preparing.	D	10%
4	Run reports in computer system to verify the status of bench warrant issuance and recalling, to ensure compliance with court orders and directions from supervisors	D	10%
5	Interview candidates for vacant section positions and recommend hiring of personnel for individual positions	Q/S	5%

Individual JCQ p. 4

Duty	Important and Essential Duties	Frequency Code	Approx. % of time
6	Provide statistical information to supervisor and Clerk of Court of various criminal case filings and number of bench warrants and subpoenas issued	Q/A	3%
7	Prepare written correspondence to outside and affiliated agencies and attorneys as needed	W	2%
8	Review standard procedures and draft recommended changes, submitting to Sr. Deputy Clerk for review and approval; implement policy and procedure changes	W/Q	5%
9			
10			

Individual JCQ p. 5

PART 4 – GENERAL INFORMATION

PRINCIPAL CHALLENGES

1. Identify the most difficult problem(s) you are required to solve in order to accomplish your job.

Determining where the error occurred when the reports from the computer system do not match known information on case files. For example, bench warrant issuance numbers showing in a statistical report ran from the system not matching the number of bench warrants issued on reports listed from a judge's office.

Personnel related issues such as resolving employee conflicts/disputes and improving staff morale, or determining what steps should be taking when performance is lacking.

2. Describe the most complex duty(ies) you are required to perform in order to accomplish your job.

Analyzing and recommending revised changes to processing court cases when laws, regulations, or court policies and procedures change.

Coordinating with judicial staff and other outside agencies and entities when problems occur on subpoena issuance or bench warrant problems.

AUTHORITY AND RESPONSIBILITY

1. What typical decisions does this position have total authority to make?

How to assign and allocate work in my section; how to implement changes in policy and procedure made by others; approval of vacations and training for subordinates; when to run reports throughout the month; when to contact other entities and how to resolve most processing problems; disciplinary action up to suspensions or terminations; performance review ratings

2. What typical decisions does this position recommend to others for action?

Procedure and policy changes; suspension and termination of employees; which employees to hire

Individual JCQ p. 6

<p>3. Who reviews or checks your work?</p> <p>Senior Deputy Clerk, Clerk, and Judges</p>
<p>4. When is your work reviewed?</p> <p>Periodically, as needed, mostly for the results obtained; Reports and Statistically information is reviewed as submitted, either monthly or quarterly.</p>

KEY CONTACTS

Often employees must go to sources to accomplish such tasks as gathering information, obtaining advice, or ensuring coordination. These sources are considered key contacts and can occur inside or outside the organization. Contacts may be individuals (by title), or groups (task force, committees, etc.).

Example:

Key Contact	Purpose	Frequency
Accounting Manager	Analyze department expenditures	M
Outside Judicial Partner	Obtain information or coordinate activities	D
Clerk of Court or Judge	Review Results of Work and Performance	Y

- Please list the most significant work-related contacts that this position makes within or outside of the agency. Please list the purpose and frequency of such contact. Do not list the supervisor or subordinates for this position as key contacts. Use the following frequency codes to indicate how often the contact occurs: (D) Daily, (W) Weekly, (B) Bi-Weekly, (M) Monthly, (Q) Quarterly, (S) Semi-Annually, (Y) Yearly**

Key Contact	Purpose	Frequency
Prosecutor	Receive requests for subpoenas and resolve issues related to subpoena requests; review issues on criminal case files that need attention	D
Police Department	Provide information about court dates and resetting of matters involving police officers; Answer questions and resolve issues on criminal case files if information is needed	W
Judge	Answers questions about information in court case files; resolve issues with incorrect information or processing; provide court docket and case files	D

Accounting Manager	Provide reports of assessments for fines, costs, and bench warrant amounts	M
Court Reporter	Communicate with and order transcripts when necessary on appealed cases or when requested by Judge, Clerk of Court, attorney, or member of the public.	M/S

FINANCIAL RESPONSIBILITIES

Mark the box for each function that applies to your position (check <u>all that apply</u>).		
A	<input type="checkbox"/>	Not Applicable – no financial responsibilities
B	<input type="checkbox"/>	Budgets – responsible for setting and controlling a budget
C	<input type="checkbox"/>	Budgets – has input into setting a budget
D	<input checked="" type="checkbox"/>	Budgets – responsible for staying within an assigned budget
E	<input type="checkbox"/>	Grants – research/application
F	<input type="checkbox"/>	Grants – management
G	<input type="checkbox"/>	Purchase Order Authorization
H	<input type="checkbox"/>	Purchasing Card Coordinator
I	<input type="checkbox"/>	Purchasing Card User
J	<input type="checkbox"/>	Other (Describe): _____

Mark each dollar amount below with the letter of the corresponding responsibility you indicated above (A, B, C, etc.). You must mark a dollar amount for any financial responsibility you indicated above (other than "Not Applicable").

For example, if you are responsible for staying within an assigned budget of \$600,000 annually, you would place a "D" in the blank next to "\$500,001 to \$1,000,000 annually". You may place more than one letter in one blank if needed to accurately reflect your financial responsibilities.

	up to \$1,000 annually		\$250,001 to \$500,000 annually
	\$1,001 to \$5,000 annually		\$500,001 to \$1,000,000 annually
X	\$5,001 to \$10,000 annually		\$1,000,001 to \$5,000,000 annually
	\$10,001 to \$50,000 annually		\$5,000,001 to 10,000,000 annually
	\$50,001 to \$100,000 annually		over \$10,000,000 annually
	\$100,001 to \$250,000 annually		

PART 5 - JOB-RELATED QUALIFICATIONS

KNOWLEDGE, SKILLS AND ABILITIES

List the Knowledge, Skills, and Abilities that are needed to perform the job duties listed in Part 3 of this JCQ. You must provide at least three (3) Knowledge, Skill and Ability statements.

Knowledge - Refers to information, facts, and procedures.

Skills - Often involve manual operations or tasks that require repeated practice, precision, or speed (examples: typing, machine operations, and public speaking).

Ability - Capacity to perform an action or task (examples include interpretation, analysis, and communication).

ESSENTIAL KNOWLEDGE, SKILL AND ABILITY STATEMENTS

1 Knowledge of court procedures and legal terminology, laws, and regulations related to the court system.

2 Knowledge of office management and personnel supervision.

3 Skill in the use of modern office equipment, including computers copiers, telephones, calculator, and other related equipment.

4 Ability to communicate clearly and effectively, both orally and in writing

5 Ability to deal tactfully with Judges, officials, attorneys, prisoners, and the public related to court operations.

6 Ability to establish good working relationships and resolve personnel problems and issues, maintaining effective working relationships.

7 Ability to analyze problems and recommend solutions.

8

9

10

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PART 6 – WORKING CONDITIONS

Indicate how often this position is exposed to or working under the conditions listed below.
Mark the appropriate column below with an “X” (Choose one for each row).

Working Condition	Not Applicable	Infrequent (less than 2 hours daily)	Frequent (2-6 hours daily)	Continuous (6-8 hours daily)
Sitting				X
Standing		X		
Walking			X	
Reaching		X		
Lifting (specific max weight in pounds) _____		X		
Bending		X		
Climbing	X			
Dust		X		
Odors, Fumes (describe)	X			
Extreme temperatures (describe)	X			
Extreme noise (describe)	X			
Exposure to mechanical, electrical, chemical, biological, or physical factors	X			
Outdoor weather conditions	X			
Unusual mental stress (describe)	X			
Required travel	X			
Other (describe)				

PART 7 – EDUCATION & EXPERIENCE

EDUCATION

What MINIMUM level of education do you think is necessary for a worker to perform the duties of your job?

Mark your response to the question below with an “X” in the column on the right (choose only one).

Education	Required
Read and Write/No specific requirements	
High School Diploma or equivalent (G.E.D.)	
Supplemental training (vocational or completion of some college courses)	
Formal specialized training (Associate Degree, Apprenticeship, Technician)	X
Bachelor Degree	
Master Degree	
Doctorate Degree	
Other Professional Degrees (describe) _____	

EXPERIENCE

How much experience doing the same or similar work should be REQUIRED of new employees to perform this job?

Mark your response to the question below with an “X” in the column on the right (choose only one).

Experience	Required
Less than 1 year	
1 year	
2-3 years	
4-5 years	X
6-7 years	
More than 8 years	

LICENSE / CERTIFICATION / REGISTRATION

List any licenses, registrations, or certifications you think should be required or preferred for this position.		
License/Certification/Registration	Required	Preferred

PART 8 – SUPERVISORY DUTIES

Do you supervise or act as lead worker of any employees?			
Mark the appropriate box below with an "X".			
YES (even if occasionally): CONTINUE with Part 9	<input checked="" type="checkbox"/>	NO: SKIP Part 9 - proceed to Part 10 on Page 16	<input type="checkbox"/>

PART 9 – SUPERVISORY DUTY QUESTIONS

Mark the definition that best describes the type of supervision you exercise. Choose <u>only one</u> and mark the appropriate box below with an "X".	
<input checked="" type="checkbox"/>	<u>Direct Supervision</u> - You are responsible for the administration of line personnel functions including employee selection, discipline, and formal performance evaluations.
<input type="checkbox"/>	<u>Lead Worker</u> - You are responsible for assigning, scheduling, coordinating, organizing, and directing work activities.

Select the frequency that best fits the majority of your time. Choose <u>only one</u> and mark the appropriate box below with an "X."			
Daily	<input checked="" type="checkbox"/>	As Needed	<input type="checkbox"/>
Weekly	<input type="checkbox"/>	Project Basis Only	<input type="checkbox"/>
Monthly	<input type="checkbox"/>	In Supervisor's Absence	<input type="checkbox"/>

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Indicate the number of employees you supervise in each category below. You must enter a number for at least one category of employees.

Full-Time Employees	4	Seasonal/Temporary Employees	
Part-Time Employees		Volunteers	

List the number and job classification titles of the employees you supervise. You must enter at least one classification title and corresponding number of employees.
(Example: Accounting Technician 3 – 4 employees)

Job Classification Title	Number of Employees in Classification
Deputy Clerk	3
Legal Specialist	1

What is the nature of your supervisory duties? Choose one for each function and mark the appropriate box below with an "X".

FUNCTION	RESPONSIBILITY			
	Not Applicable	Provide Input	Recommend	Approve
Hire Employees			X	
Promote Employees			X	
Performance Appraisals				X
Discipline Employees				X
Train Employees				X
Authorize Leave				X
Establish and/or revise unit procedures				X
Establish and/or revise unit policy			X	
Assign work to others				X
Distribute work to others				X
Review work of others				X
Terminate Employees			X	

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Creating a Job Description

Use the information provided to create a job description. Answer the questions below. Be prepared to share your job description with the class.

Job Title: _____

Job Summary/General Description: _____

Essential Work Tasks _____

Non-Essential Work Tasks _____

KSAOs – Knowledge, Skills, Abilities, and Other attributes needed to perform the job

Minimum Qualifications - Education and Experience _____

Certifications/Licenses Required _____

Any Other Job Aspect _____

Activity Four (a): Designing Performance Criteria

Purpose

The purpose of the activity is to aid in designing a successful performance review program.

Notes about Using the Activity

Provide the class with a particular court position(s) for which a performance review system must be designed. Divide the class into small groups and ask each group to complete the questions to design their performance criteria. Debrief the small groups and ask each group to share examples of the criteria that they chose.

Relevant Learning Objective

3. Create a performance management appraisal system for court employees that produces a high performance work culture.

Designing Performance Criteria

In your small group and using the court positions provided, design performance criteria using the steps below. Be prepared to share your performance criteria with the class.

- (1) Which system of performance management is best suited to your court position? Choose from the following: Competency-based, Objectives-based, or Graphic Rating Scale
- (2) Determine factors of performance criteria for your court position and system chosen.
- (3) Determine rating scale to use that measures performance based on the system chosen.

Ways to use a Competency Model – (1) develop at the organizational level and create subsets of performance standards reflecting those competencies (for example, professional jobs, administrative jobs, and managerial jobs). (2) Identify job families such as information technology, finance, and management. Develop customized competencies and performance standards for each job family and level. (3) Define a core set of performance standards and competencies – such as interpersonal effectiveness, teamwork, and communication – across all jobs. Define specialized technical competencies for each individual job group.

- What type of position is this? (professional, administrative, managerial?)
- What competencies should this position have? What are their main responsibilities?
- What specific performance standards are required – what categories of behavior and performance must be measured?
- Align competencies with other human resources systems such as those used in recruitment, staffing, and training. What competencies are you looking for in hiring or promoting? What areas do you see where training must happen because of deficiencies in certain behaviors and performance?
- What are the critical job requirements of this position?
- What behaviors are valued by the public? By upper management? By the judges? By affiliated justice partners?

Ways to use an Objectives-based Model --

- What are the Court's Goals and Objectives for which you want your performance management process to support? Use the goals and objectives developed in Activity One or the goals and objectives of your own court.
- What are your goals and expectations for this position that support the Court's goals and objectives?
- What functions are performed by this position with regard to carrying out the goals and objectives of the court?
- Is this a supervisory or management position? If so, what measurement will you base your review of their performance as a supervisor or manager? What functions are performed by this position with regard to supervision of employees or management of a division or program, which support the Court's goals and objectives?

- From your list of goals and expectations and functions performed by the position, develop a list of factors to be rated on that will measure the effectiveness of performance in reaching the goals and objectives of both the position and court.

Ways to use a Graphic Rating Scale –

- Choose specific factors that define the general behaviors expected for the position. Include additional factors and behaviors for supervisory or management positions, based on expectations for that level of position.
- Determine the rating scale to use for the factors chosen that is objective and measurable.

Designing Performance Criteria Worksheet

Position: _____

Performance Management System: _____

Competencies, Objectives, or Factors Chosen to Evaluate Performance:

Rating Scale to use for Each Factor, Objective, or Competency:

Activity Four (b): Minimizing Personal Bias in Performance Appraisals

Purpose

The purpose of the activity is to aid in identifying types of personal bias (explicit and implicit), the potential impact of implicit bias, and ways to minimize bias in the performance review process.

Notes about Using the Activity

Provide the class with implicit bias awareness tests like the ones found at <https://www.implicit.harvard.edu>.

Relevant Learning Objective

Understand the potential impact that implicit bias has on performance appraisals and identify tools to assist.

Minimizing Personal Bias in Performance Appraisals

Individually take the implicit bias awareness test(s) and review information posted on NCSC website related to implicit bias. Discuss with your small group.

Consider the following examples of implicit bias scenarios:

1. A court manager worked through the ranks and has been promoted to supervisor of former co-workers. Manager always got along well with one co-worker but not so much with the other co-worker. There is also a brand new subordinate who came from outside the organization. How can manager create a performance management appraisal system that minimizes personal bias for/against former co-workers and new employee?
2. A court manager supervises two employees, one who plays with manager on same softball team and another employee who plays on a much despised rival team. How can manager create a performance management appraisal system that minimizes personal bias for/against the subordinate who is on the same softball team and the other employee who is on the rival team? What can the manager do to reduce the possibility that the employee who plays on the rival team believes the appraisal is fair if the review is a poor review?
3. A court manager and two subordinates attended the same college. One subordinate was a member of a fraternity that was notorious for partying, while the other subordinate was a member of the same fraternity as manager that focused on academic success. How can manager create a performance management appraisal system that minimizes personal bias for/against the subordinates?

Preparing for the performance appraisal meeting with the employee:

- A. Have you reviewed the goals from the prior performance period? How often during the performance period did you review the goals with the employee? Have you re-read the performance appraisal before you meet with the employee?
- B. Were the goals SMART?
- C. Have you provided specific examples for the entire performance period or just the last few weeks?
- D. When you review the performance appraisals for all your employees do the reviews all sound the same?

- E. Do your reviews sound more favorable to some employees without specific examples or achievement of SMART goals to support the rating?
- F. When giving assignments do you habitually think of the same employee for favorable assignments?
- G. Do you give more favorable assignments or higher performance ratings to employees who are similar to yourself (e.g. same gender, race, age) or have similar interests as your own or similar career backgrounds?

Activity Five: Develop a Strategic Workforce Plan

Purpose

The purpose of the activity is to learn how to prepare for challenges associated with key positions and how to strategically plan for staffing needs.

Notes about Using the Activity

Show examples of positions on an organizational chart that are vulnerable, based on an age and attrition study. Demonstrate how an age and attrition study is done and how it reveals vulnerable positions. Pick one of the vulnerable key positions that an employee might aspire to and create an Individual Development Plan (IDP) for that employee, based on what skills and competencies necessary for that position, which were revealed from a job analysis. Brainstorm or divide into groups and have groups create the IDP for that employee and position.

Relevant Learning Objective

5. Implement a strategic workforce plan to address staffing needs for the court.

Develop a Strategic Workforce Plan

Understand your current workforce and project your workforce requirements:

What do you have now, and what will you need based on anticipated departures?

Identify your key positions and those vulnerable, based on an Age and Attrition Study (see handout examples). What positions are vulnerable (which ones are Red or Green), that are most likely to be vacant in the next few years due to anticipated retirements or leaving for other jobs because they have not vested?

Create a pool of talented, skilled, and knowledgeable employees:

What are the skills needed for the key positions that are vulnerable? (This can be determined by having a list of competencies for each position and holding focus groups with employees in those positions)

Which competencies are needed for the identified key vulnerable positions?

Create an Individual Development Plan (IDP) for one of the key positions that is vulnerable. (What are the competencies needed and what training is required for each identified position.)

****Maintain a database of individuals pursuing key positions and update as skills and training are obtained and as vacancies occur.**

Performing an Age and Attrition Study

With an Age and Attrition Study, you are looking at the Years of Service of people in key positions and their Ages, to estimate how close they are to retiring or leaving your court. The formula here assumes a vesting period of 10 years with the court and retirement age of 55 with 10 years or 25 years of service regardless of age. Use the legend below to determine which positions are vulnerable to being vacant in the next few years.

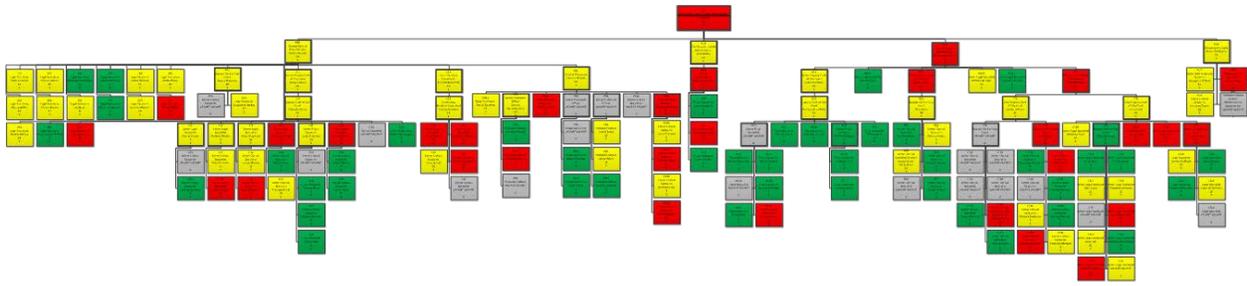
Color	Years of Service	Age	Remaining Years of Service (Estimate)
Red	25-32	58+	0-7
Yellow	10-24	43-57	8-22
Green	0-9	18-42	23-32

An Excel worksheet can be used to input the information about each person in your key positions or all positions within a court. Using appropriate formulas and conditional formatting this will reveal the color for each person based on the legend. Those positions identified as red and green are your most vulnerable positions because the employees are close to retirement or haven't vested, so likely to leave if unhappy or a better job is found.

JOB DESCR	LAST NAME	FIRST NAME	INI	EMPLE	REPORTS	EFF HIRE	EFF YRS	YRS	AG	WORSE	TODAY'S	DROP	BIRTH	HIRE	SE	RAC
CLASSIFICATION 1	EXAMPLE 1				0	6/15/1983	28	21	57	R	2/15/2012	DP	11/11/1954	2/15/1991		
CLASSIFICATION 2	EXAMPLE 2				0	6/20/1994	17	17	42	Y	2/15/2012		3/4/1969	6/20/1994		
CLASSIFICATION 3	EXAMPLE 3					12/21/2002	9	9	65	R	2/15/2012		1/11/1946	12/21/2002		
CLASSIFICATION 4	EXAMPLE 4				0	7/13/2004	7	7	34	G	2/15/2012		7/28/1977	7/13/2004		
CLASSIFICATION 5	EXAMPLE 5				0	10/30/1969	22	22	63	R	2/15/2012	DP	12/28/1948	10/30/1969		
CLASSIFICATION 6	EXAMPLE 6				0	3/8/2003	8	8	51	Y	2/15/2012		7/14/1961	3/8/2003		
CLASSIFICATION 7	EXAMPLE 7				0	3/28/1981	30	30	53	R	2/15/2012	DP	3/8/1958	3/28/1981		
CLASSIFICATION 8	EXAMPLE 8				0	11/15/1986	25	25	48	Y	2/15/2012		1/20/1964	11/15/1986		
CLASSIFICATION 9	EXAMPLE 9				0	12/28/1989	22	6	48	Y	2/15/2012		11/16/1963	3/28/2005		
CLASSIFICATION 10	EXAMPLE 10				0	1/9/1984	28	28	59	R	2/15/2012	DP	3/11/1952	1/9/1984		
CLASSIFICATION 11	EXAMPLE 11				0	11/18/2009	2	2	52	Y	2/15/2012		2/27/1953	11/18/2009		
EXECUTIVE ASSISTANT	VACANT									V						
HUMAN RESOURCES ANALYST	VACANT									V						
HUMAN RESOURCES DIVISION MANAGER	VACANT									V						
SENIOR HUMAN RESOURCES ANALYST	VACANT									V						
SENIOR HUMAN RESOURCES SPECIALIST	VACANT									V						
SENIOR HUMAN RESOURCES SPECIALIST	VACANT									V						

GRAPHIC – Example of the results of an Age and Attrition Study for a Court

Plotting the positions from your Excel Worksheet to an Organizational Chart will give you a visual depiction of your organization and its vulnerable positions. Seeing this on an org chart can sometimes better help identify which positions for which you need to develop a strategic plan to fill, through hiring and through training staff to move into those vulnerable areas.



Determining Competencies for Key Positions:

Competency List			
<input type="checkbox"/> Adaptability	<input type="checkbox"/> Attention to Detail	<input type="checkbox"/> Coaching	<input type="checkbox"/> Commitment to Learning
<input type="checkbox"/> Communication	<input type="checkbox"/> Community Awareness	<input type="checkbox"/> Conflict Management	<input type="checkbox"/> Creativity
<input type="checkbox"/> Customer Service	<input type="checkbox"/> Dependability	<input type="checkbox"/> Facilitation	<input type="checkbox"/> Follow Through
<input type="checkbox"/> Initiative	<input type="checkbox"/> Integrity	<input type="checkbox"/> Interpersonal Skills	<input type="checkbox"/> Job Knowledge
<input type="checkbox"/> Knowledge Sharing	<input type="checkbox"/> Leadership	<input type="checkbox"/> Negotiating	<input type="checkbox"/> Networking
<input type="checkbox"/> Organizational Skills	<input type="checkbox"/> Performance Management	<input type="checkbox"/> Problem-Solving/Decision Making	<input type="checkbox"/> Professionalism
<input type="checkbox"/> Project Management	<input type="checkbox"/> Recordkeeping	<input type="checkbox"/> Resource Management	<input type="checkbox"/> Safety Management
<input type="checkbox"/> Strategic Thinking	<input type="checkbox"/> Stress Management	<input type="checkbox"/> Teamwork	<input type="checkbox"/> Managing Time and Priorities
<input type="checkbox"/> Work Product	<input type="checkbox"/> Other		

Individual Development Plan

Position: _____

Name: _____

Competencies Required:		Obtained (Yes/No)
Competencies Desired:		
Training Required:		
Training Beneficial:		
Education Required:		
Education Preferred:		

Strategic Workforce Plan

Communicate Strategic Workforce Plan	Date	Activities/Examples/Steps to Initiate
Emails, memos, meetings, etc.		
Assess Workforce Vulnerabilities		
Once a year, update Age and Attrition Study		
Identify and Prioritize Key Positions		
Which key positions should be looked at?		
Create and Implement Individual Development Plans (IDPs)		
Identify competencies needed for key vulnerable positions and identify training needed		
Maintain Talent Pool/Database		
Determine possible candidates, based on competencies and training obtained		
Evaluate Strategic Plan		
Periodically evaluate plan and revise as needed to accommodate changing forces and priorities		

Activity Six: Staff Training and Development

Purpose

The purpose of this activity is to identify areas where training and staff development is needed to meet the court's goals and objectives and to develop a strategic plan for providing staff with the skills and training needed to fill the gaps.

Notes about Using the Activity

This can be done as a brainstorming activity, small group, or individual exercise, using the attached Training Needs Assessment Worksheet. Provide the participants with the worksheet and pose questions to drive the analysis and determination of training needs. The focus can be on coming up with a training plan for specific positions, certain workgroups, or the entire court. The first sheet provides an example of how the sheet can be completed; the second sheet is the blank worksheet to be used with the participants.

Relevant Learning Objective

Assess the education and training needs of the court to improve staff development and performance.



Sample

TRAINING NEEDS ASSESSMENT WORKSHEET

Step 1 IDENTIFY THE BUSINESS NEED:	
<i>Focus on areas of training necessary for Employees to successfully carry out the Mission, Goals, and Objectives of the Court (both from organization-wide and individual perspective)</i>	
What Skills/Competencies are Needed?	
<u>Court-wide</u>	<u>Individual/Key Positions</u>
Ethics Purposes and Responsibilities of Courts Communication Customer Service.....	Professionalism Leadership Community Awareness....
Step 2 PERFORM A GAP ANALYSIS:	
<i>Assess current state of skills/competencies compared to desired level</i>	
<u>HR Records to look at:</u>	<u>Competencies Not Being Met</u>
Accident Reports (W/C Claims) Grievances/Complaints...	

TRAINING NEEDS ASSESSMENT WORKSHEET

<p><u>Individuals to interview (Internally & Externally):</u></p> <p><i>Employees</i> <i>Prosecutors...</i></p>	<p><u>Competencies Not Being Met</u></p>
<p><u>Focus Groups/Departments to Brainstorm with:</u></p> <p><i>Specialty Court Team members</i> <i>Minute Clerks...</i></p>	<p><u>Competencies Not Being Met</u></p>
<p><u>Surveys, Questionnaires, and Self-Assessments:</u> <i>(written/electronic)</i></p> <p><i>Which tool?</i></p> <p><i>Who to survey?</i></p> <p><i>What areas to cover?</i></p>	<p><u>Competencies Not Being Met</u></p>
<p><u>Observations (Sources):</u></p> <p><i>On the job</i> <i>Written work samples...</i></p>	<p><u>Competencies Not Being Met</u></p>

TRAINING NEEDS ASSESSMENT WORKSHEET

Step 3

ASSESS TRAINING OPTIONS:

Evaluate training options and needs for staff development based on priorities and based on both short-term and long-term goals and priorities of the court, and factoring cost

<p><u>List and Score Training Needs:</u> (1 = critical; 2 = important; 3 = not important)</p>	<p><u>Evaluation Criteria</u> (Return on Investment, Legal Compliance, Time Involved, Fulfilling Mission and Goals)</p>
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Step 4

REPORT TRAINING NEEDS AND RECOMMEND TRAINING PLANS

<p><u>Priority of Training Needs:</u></p>	<p><u>Timeline:</u></p>	<p><u>Cost/Budget Year:</u></p>
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TRAINING NEEDS ASSESSMENT

Step 1 *Focus on areas of training necessary for Employees to successfully carry out the Mission, Goals, and Objectives of the Court (both from organization-wide and individual perspective)*
IDENTIFY THE BUSINESS NEED:

What Skills/Competencies are Needed?	
<u>Court-wide</u>	<u>Individual/Key Positions</u>

Step 2 *Assess current state of skills/competencies compared to desired level*
PERFORM A GAP ANALYSIS:

<u>HR Records to look at:</u>	<u>Competencies Not Being Met</u>
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TRAINING NEEDS ASSESSMENT

<u>Individuals to interview (Internally & Externally):</u>	<u>Competencies Not Being Met</u>
<u>Focus Groups/Departments to Brainstorm with:</u>	<u>Competencies Not Being Met</u>
<u>Surveys, Questionnaires, and Self-Assessments:</u>	<u>Competencies Not Being Met</u>
<u>Observations (Sources):</u>	<u>Competencies Not Being Met</u>

TRAINING NEEDS ASSESSMENT

Step 3 *Evaluate training options and needs for staff development based on priorities and based on both short-term and long-term goals and priorities of the court, and factoring cost*
ASSESS TRAINING OPTIONS:

<u>List and Score Training Needs:</u> <i>(1 = critical; 2 = important; 3 = not important)</i>	<u>Evaluation Criteria</u> <i>(Return on Investment, Legal Compliance, Time Involved, Fulfilling Mission and Goals)</i>
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Step 4
REPORT TRAINING NEEDS AND RECOMMEND TRAINING PLANS

<u>Priority of Training Needs:</u>	<u>Timeline:</u>	<u>Cost/Budget Year:</u>
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Activity Seven: Developing Pay Scales

Purpose

The purpose of the activity is to learn to develop appropriate compensation plans for different pay strategies.

Notes about Using the Activity

Divide class into groups and provide them with the sample market data. Have them develop proposed pay scales for these positions based on the market data and pay strategy picked. Have each group report on their proposed pay scales and compare the groups to see how their pay scales compare. Have them report which pay strategy they used and why.

Relevant Learning Objective

Assess and recommend appropriate compensation and benefit structures.

Market Data Salary Survey Results

Court Positions	Average Salary
Account Clerk	25,000
Accounting Associate	38,100
Administrative Assistant	31,400
Business Office Manager	62,400
Chief of Probation	53,500
Civil Division Manager	54,000
Clerk of Court	90,000
Community Relations Coordinator	40,250
Computer Programmer/Systems Analyst	48,900
Court Services Director	52,600
Criminal Division Manager	56,000
Deputy Clerk	38,100
Deputy Judicial Administrator	62,300
Docket Clerk	31,000
Executive Assistant	44,300
Finance Director	60,500
Fiscal Clerk	27,700
IT Director	59,000
Law Clerk	38,000
Legal Secretary	34,000
Legal Specialist	31,400
Minute Clerk	35,000
Probation Officer	38,900
Records Supervisor	37,500
Senior Clerical Specialist	28,500

Activity Eight: Risk Management Process

Purpose

The purpose of the activity is to outline and plan risk management strategies that affect the workforce.

Notes about Using the Activity

Provide participants with the Risk Management Process Worksheet and have them individually fill it out, considering possible risks facing their court that involves the workforce. Encourage them to select examples that are manageable to address during this exercise (in other words, perhaps a certain type of worker's compensation issue vs. the possibility of a hurricane). Ask for volunteers to go through one or more risks on their worksheet.

Relevant Learning Objective

Evaluate potential areas of risk to court personnel and establish and implement policies to prevent or mitigate those risks.

Activity Nine: Employee Relations Scenario

Purpose

The purpose of the activity is to analyze an employee relations problem and determine the appropriate solution.

Notes about Using the Activity

Put the class into small groups. Have the groups read the scenario and answer the questions. After the small groups have completed the exercise, bring the groups back together and have each group report to the class on how they would resolve the issue.

Relevant Learning Objective

Analyze a typical employee relations problem and determine a strategy for resolution.

Employee Relations Scenario

In your small group, read the scenario below and answer the questions. Be prepared to share your answers with the class.

Mary and Jane work in the same division of the court but never speak to each other. They used to be very friendly to each other and seemed to work well together until recent weeks. Their supervisor has been called into the division manager's office several times asking why work they perform has been delinquent and fraught with errors on several occasions over the last month. She asks the supervisor to determine the problem and to address the situation.

1. What steps should the supervisor take with each employee?
2. What, if any, disciplinary action, should the supervisor issue?
3. How should the supervisor respond to the division manager?
4. What steps should the supervisor take to prevent similar issues from occurring in the future?

Activity Ten: Starting a Veteran’s Court – Change Management Strategy

Purpose

The purpose of the activity is to learn to create a strategic plan for managing an organizational change that affects the workforce.

Notes about Using the Activity

Break the class into small groups and have them work through the scenario of the creation of a new veteran’s court. Alternatively, if participants have a change that will be facing their court, they can choose to use their situation instead of the veteran’s court. Have the small groups work through the questions. Once they are done, ask them to share their answers with the class.

Relevant Learning Objective

Identify a needed business process or organizational change and create a plan for successful change management.

Starting a Veteran’s Court – Change Management Strategy

In your small group read the scenario and answer the questions. Be prepared to share your answers with the group.

Your court has decided to start a Veteran’s Court. In your jurisdiction, there is already an established adult drug court and DWI court. There is also a mental health court that takes a small number of participants and has had some issues with success. Generally, there is support for problem-solving courts in your jurisdiction. However, there are many who believe that the problem-solving courts are expensive, require lots of extra data tracking, and sometimes are not worth the effort. Two of the courts – DWI court and the mental health court – will be running out of funding in the next two years and it is uncertain if they will be self-sustaining. The jurisdiction is in the process of submitting a grant for the Veteran’s Court which would provide start-up funds and training for the first two years. The first year would be the planning year (with training opportunities) and the second year would be in the implementation year.

1. Communications Plan

Who will communicate information about the new Veteran’s Court?

How will it be communicated?

What facts will be communicated?

2. Who would be the best staff members to serve as change agents – who would make up the guiding coalition and lead the change;

Determine the vision and strategy necessary for managing the change;

Determine the best methods for communicating the change and process for implementing the new specialty court;

3. What obstacles might be presented and how to navigate through them;

4. What resistance might be encountered by court staff or other outside influences;

Determine how to measure success of the new program and how to communicate that success.

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