Executive Summary

The American Society of Employers conducted its Human Resource Assessment for ABC COMPANY in DATE, 2019. Through a process of HR staff interview, on-site inspection, employee handbook compliance review and personnel files audit, this HR Assessment reviewed the following components of ABC COMPANY’s Human Resource function:

- The Employment Process
- Employee Relations
- Performance Management Practices
- Legal Compliance
- Benefits Review
- Employee Recognition and Involvement Practices
- Employee Development Practices
- Safety and Health Program
- A review of the HR function based upon planned or future business projections

The full Feedback Report identifies Strengths, Concerns (weaknesses) and makes Recommendations regarding identified ABC COMPANY Concerns in its Human Resources functions that are consistent with generally accepted human resource policy, practice and compliance principles.

The Executive Summary identifies and prioritizes the most important recommendations detailed in the Feedback Report. Prioritization of Recommendation is based upon an evaluation of legal, employment relations and generally accepted HR policies and practices commensurate with most comparably sized and structured organizations.

Based upon ASE’s HR Assessment findings we recommend the following for priority response.

Over All Assessment

All and All the ABC COMPANY human resource function could be rated 6 out of 10 on a scale where no HR function exists is a 1, and a world class HR function is in place and
working, a 10. The reasons for this above average rating is this HR Assessment found ABC COMPANY HR policies and practices are generally fully developed, formalized and were reported as practiced on a consistent and legally compliant basis.

The HR Assessment, as conducted, reviewed ABC COMPANY policy and practice against basic HR policy and practice that most organizations that have been in operation for five or more years should have in place.

**Legal Compliance**

1. **The personnel file audit looked at a total sampling of eight files or ~20% of personnel files for I-9 purposes. The audit of those I-9 forms found that fifty (50%) percent of those documents were not completed and or edited properly.**

The current state of I-9 form completion puts ABC COMPANY in a detrimental position should Immigration Control and Enforcement (ICE) conduct an audit. Fines for incorrect or incomplete I-9 forms range up to $1000 per violation.

☑ Most issues with ABC COMPANY’s I-9 forms that were found involved improper Section 2 document information completion on the form.

Please note that the current I-9 form expires August 31, 2019. I-9 forms are available online from the USCIS web site ([www.uscis.gov](http://www.uscis.gov)).

On the whole ABC COMPANY personnel files and its system were well organized. However, some records were found to be inconsistently kept from file to file.

2. **ABC COMPANY should amend its medical file record keeping policy to maintain those records for the required legal time period of employment plus thirty (30) years (if employee works longer than 1 year).**

3. **It was reported that ABC COMPANY did not record and maintain the MIOSHA Log 300 as required by the state. ABC COMPANY should implement legal record keeping as soon as possible. This form can be obtained from MIOSHA Michigan Department of Licensing and Regulatory Affairs, Michigan Occupational Safety and Health Administration, Consultation Education & Training Division, Box 30643, Lansing, MI 48909-8143. Telephone: (517) 322-1809.**

4. **The ABC COMPANY employee handbook was reviewed and updated for legal compliance issues. It contains most of the fundamental legal policies recommended. There are a couple issues to note:**
**Purpose or About this Handbook** - This policy most often contains a disclaimer notifying employees that the policies in the handbook are not a contract for employment or not indicative of one. This disclaimer was not found in ABC COMPANY’s employee handbook.

It typically states: “The policies and procedures in this booklet are not intended to be contractual commitments or a guarantee of benefits or rights by UWSEM, and employees shall not construe them as such.”

ABC COMPANY’s handbook does contain part of this disclaimer in a note on the Title pages stating ABC COMPANY management reserves the right to amend or discontinue any policies, procedures, programs, or benefits at any time with or without notice. It may have been done so intentionally to provide for the option of policy and practice agreement through the handbook.

A partial disclaimer is also found in the Employee Policy Manual Acknowledgement at the end of the handbook along with exceptions to this policy.

Without this disclaimer policies could be arguably contracted for by virtue of what is stated in the employee handbook.

Given the construction of these policies it appears the handbook was designed without it, in order to allow certain handbook policies and terms to be treated as contractual agreement. It is recommended ABC COMPANY confirm with its legal counsel if that the disclaimer was intentionally omitted for the reason.

**Equal Employment Opportunity policy statement** – The statement is an important affirmative defense policy. It was noted that ABC COMPANY’s policy, though stating the standard protected classes did not include an important catch-all phrase that are in all equal employment opportunity policy statements.

It is recommended ABC COMPANY amend its policy to conclude the list of protected classes (sex, age, race, color, religion, ancestry or national origin, veteran status, disability, marital status, height or weight) with the phrase “or any other status protected by law.” This catch-all phrase allows the policy to include any other characteristic local or other law extends protections for in the event ABC COMPANY’s EEO policy does not formally recognize it.

Further, it is recommended the EEO statement must include a “anti-retaliation” statement and a complaint process in it. The policy should be amended to include the following statement.
“If you have a complaint of unlawful harassment or discrimination (or knowledge of such an incident), promptly report the incident to your manager or Human Resources. Employees and applicants can raise concerns and make reports without fear of reprisal, intimidation, threats or coercion. Your complaint will be investigated on a timely basis and in a confidential manner, to the extent possible.”

A review of ABC COMPANY employee handbook legal statements and policies found the following conforming policies:

- Americans with Disabilities Notice and Invitation
- At-Will Relationship
- Introductory Review Period
- Conflict of Interest
- Anti-Discrimination and Harassment policy
- Michigan Social Security Number Privacy Act policy
- Time Limitation for Claims
- Employee Acknowledgement Form

Because ABC Company is under fifty employees currently the Family and Medical Leave policy does not apply.

5. It is recommended ABC COMPANY update its job descriptions to include mental and physical demands of the job pursuant to Americans With Disabilities Act compliance requirements.

Organization Development

6. ABC COMPANY should implement anti-harassment training for its management staff. It should also consider candidate interview training to ensure supervisors and managers know what interview questions can be asked and should not as potentially discriminatory.

7. ABC COMPANY should confirm that the area where required posters are posted is also visible to employment applicants. If not, ABC COMPANY should put a set of posters where employment applicants can review the posting information pursuant to law.

8. Though ABC COMPANY operates in a well lit, clean office environment with minimal overt injury/illness threat present, work accidents causing injury are possible anywhere. It is recommended ABC COMPANY review its safety and health risks to determine what potential safety and health risks are present and
develop a policy and procedure as well as an internal oversight function to identify and respond to those potential threats.
Purpose of the Assessment of Human Resources Policies Practices

ASE’s Assessment of Human Resources Practices, and its report and recommendations, are intended to provide guidelines for improving and enhancing an organization’s human resource policies, practices and function. Its purpose is to identify some common or standard practices or programs that may or may not be part of this organization’s human resource program and, in the ASE’s opinion, should be part of most organizations’ human resource practices, policies or principles.

The assessment and report is intended to provide guidance and suggestions on policies or practices that many organizations with developed human resource functions utilize to comply with laws, regulations and instill generally accepted positive human resource principles and practices within the organization.

The HR Assessment process and report recommendations should not be construed, nor is it intended, to be a complete or comprehensive audit of this organization’s human resource practices and programs.

Further, this HR Assessment is not intended to be a substitute for an in-depth Human Resources audit, due diligence or legal review by an organization’s legal counsel. The information used to compile the report was acquired in an interview with select personnel from ABC COMPANY as well as a review of the organization’s employee handbook and an audit of its personnel files. It reflects an analysis of staff response to audit questions and the audit and review activity only. Information on company policies and practices that was not communicated in that interview, intentionally or unintentionally, can and will impact this report’s findings and the recommendations provided in it.

Report Format

The following report summarizes the Human Resources function, policies and practices of ABC COMPANY, as described by designated ABC COMPANY personnel on June 15, 2018 with Deborah Harp, Human Resources Coordinator. It also includes findings resulting from an audit of ABC COMPANY personnel files, including a more detailed inspections of I-9 forms, and review of ABC COMPANY employee handbook and posting practices.

The assessment feedback information in this report is organized into the following categories:

The Employment Process
Employee Relations
Performance Management Practices
Legal Compliance
Benefits Review
Employee Recognition and Involvement Practices
Employee Development Practices
Safety and Health Program

And a review of HR based upon future business projections

For each category, the report provides information and feedback about Suggested and/or Common Practices for that human resource subject category. Each section identifies areas of Strength (where practices or policies are in-place and compliant), areas of Concern for the organization in that category; and pursuant to those Concerns, provides Recommendations for change that the organization may wish to implement.
Analysis and Feedback Report

Employment Process

Recruitment/Screening: This component looks at the organizations hiring process. Sourcing and applicant tracking are a critical component of this HR function. Skills testing and/or personality profiling can be valuable but only if the instruments used are validated for the position and are administered in a non-discriminatory way. Thorough background checking with documentation should be done, at least on the top candidate for the position, and if possible on all “finalists” for the position. Offer Letters are desirable for all new hires but should be extended to at least “key” employee hires.

Employment Record Keeping: The organization should keep separate files for each employee for Employment, I-9, and all Medical History (and medical information). Employment files must document exempt/non-exempt status, the organization’s defined workweek, and pay basis for the employee; for each non-exempt employee, there must be a record of total weekly wages and hours worked, and rate of pay. Government contractors or subcontractors with at least 50 employees and at least $50K in government contracts must maintain a current written Affirmative Action plan.

A total organizational electronic recordkeeping system should archive all electronic records. This includes any record pertaining to employment. The Federal Rules of Civil Procedures were updated to specifically address electronic files storage and retrieval in the event of a lawsuit where production of any relevant files may be required to be produced during the discovery phase.

Strengths:

- ABC COMPANY uses most recruitment resources to some degree that are available for hiring activity.

- The screening/selection/hiring for job candidates includes a comprehensive set of hiring procedures. These procedures include an analysis of the job prior to starting recruitment activity, hiring manager interview using fact based, situational and behavioral based questions, more than one face to face interview, interviews with more than one manager, a multi-report background check and offer letter. It was noted that hiring managers have not received formal interview training however.

- ABC COMPANY conducts background checks on all primary candidates using a third-party provider. This check includes criminal history, social security verification, and business check.
• **ABC COMPANY** has thorough record keeping system that has separate file folders for general personnel records, medical and I-9 forms. The forms are kept in separate document binder for security and confidentiality purposes.

• **ABC COMPANY** has a formal Records Retention policy stated in its handbook. The policy specifically addresses some business record retention. Records Most records are kept for the legally recommended amount of time pursuant to the statutes that dictate. See below Concern regarding medical records that were reported to be kept only 10 yrs.

• A sampling of ~ 20% of personnel files was conducted. Of the eight (8) personnel files audited for recordkeeping:
  - ✓ All employee medical information is kept separate from employee’s personnel file.
  - ✓ All I-9 forms were kept in a separate filing system.
  - ✓ It was reported that proper wage and hour documentation and recordkeeping was reported to be maintained through ABC COMPANY’s use of outside service payroll system.
  - ✓ Tax form documentation was in all files (100%).
  - ✓ Disciplinary/performance appraisal documentation was in 7 of 8 files (87.5%).
  - ✓ All files contained a completed employee application form (100%) and 6 of 8 (75%) files contained a resume.

• For how many years are records kept on the following?
  - 10 yrs. - Disciplinary Records (These records can be kept for as short as 3 yrs.)
  - Not Kept - MIOSHA Log 300
  - 3 yrs. - Applicant Files
  - 10 yrs. - Form I-9 (7 yrs. is recommended for general business purposes)
  - 10 yrs. - Payroll Records (FLSA requires 3 yrs.)
  - 10 yrs. after termination - Medical Records (OSHA regulations state employers maintain some records for duration of employment plus 30yrs.)
  - Note: See informational note in the safety and health section of this report below on possible exemption for ABC COMPANY under OSHA record keeping requirements.
  - 10 yrs. after termination - Leave Records (These records can be kept for as short as 3 yrs.)
Concerns:

- Hiring managers do not receive formal interview skills training.

- It was reported medical records were only kept for ten years past termination of employment. MIOSHA states employee medical records should be kept for thirty (30) years.

- *It was reported that ABC COMPANY did not record and maintain the MIOSHA Log 300 as required by the state. ABC COMPANY should implement legal record keeping as soon as possible. This form can be obtained from MIOSHA Michigan Department of Licensing and Regulatory Affairs, Michigan Occupational Safety and Health Administration, Consultation Education & Training Division, Box 30643, Lansing, MI 48909-8143. Telephone: (517) 322-1809.

- * The personnel file audit looked at a total of the sampling of eight or ~20% of personnel files for I-9 inspection purposes. The audit of those I-9 forms found that sixty-two (62%) percent of those documents were not completed or in cases where errors were identified, corrected properly.

  The current state of I-9 form completion puts ABC COMPANY in a detrimental position should Immigration Customs and Enforcement (ICE) conduct an audit. Fines for incorrect or incomplete I-9 forms range up to $1000 per violation.

  ✓ Most issues with the I-9’s that were found involved incomplete or missing information on the form.

Recommendations:

- I-9 Form Compliance
  ABC COMPANY personnel file system is set up as a thorough set of records and the file documents were properly separated for confidentiality purposes. I-9 Forms is the biggest area of record keeping concern and it is recommended ABC COMPANY do a thorough review and update of its I-9 forms using proper I-9 editing protocols for incomplete information. Given the enforcement environment, it is believed ABC COMPANY would find itself in a compromised position if audited by ICE today.

- ABC COMPANY should amend its personnel and medical file record retention policy and practices to maintain those records for the required legal time periods. ASE provides this information at its member’s request or at its Members Only website in the HRAnswersNow library.
• ABC COMPANY should consider formal interview training for its supervisors and managers. This training should focus on do’s and don’ts of interviewing.