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DRUMMERS NAMED RINGO	HOW MANY FINGERS AM I HOLDING UP?	EMPLOYMENT POLICIES	COLORS THAT END IN "URPLE"	WORDS THAT RHYME WITH DOG	MONTHS THAT START WITH "FEB"
\$200	\$200	\$200	\$200	\$200	\$200
\$400	\$400	\$400	\$400	\$400	\$400
\$600	\$600	\$600	\$600	\$600	\$600
\$800	\$800	\$800	\$800	\$800	\$800
\$1000	\$1000	\$1000	\$1000	\$1000	\$1000

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EMPLOYMENT POLICIES - \$200

THIS POLICY PROVIDES THAT EMPLOYMENT DECISIONS ARE BASED ON MERIT, NOT PERSONAL TRAITS OR CHARACTERISTICS

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QUESTION:

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**POLICY CONTENTS**

- Employment decisions must be based on *merit* – skill, experience, qualifications, work quality, performance
- “Employment decisions” include recruiting, hiring, training, transfers, promotions, benefits, corrective action, termination
- Employment decisions must not be made based on *protected characteristics*

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## PROTECTED CLASSES

FEDERAL						PA
TITLE VII	ADEA	ADA	GINA	USERRA	PWFA PUMP	PHRA
<ul style="list-style-type: none"> <li>▪ Race</li> <li>▪ Color</li> <li>▪ Sex/Gender                             <ul style="list-style-type: none"> <li>○ Sexual orientation</li> <li>○ Transgender status</li> <li>○ Gender identity</li> </ul> </li> <li>▪ Religion</li> <li>▪ National Origin</li> </ul>	<ul style="list-style-type: none"> <li>▪ Age (40+)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Disability</li> </ul>	<ul style="list-style-type: none"> <li>▪ Genetic Info</li> </ul>	<ul style="list-style-type: none"> <li>▪ Military service</li> <li>▪ Veteran status</li> </ul>	<ul style="list-style-type: none"> <li>▪ Pregnant workers</li> <li>▪ Pregnancy-related disabilities</li> <li>▪ Nursing Mothers</li> </ul>	<ul style="list-style-type: none"> <li>▪ Race</li> <li>▪ Color</li> <li>▪ Sex/Gender                             <ul style="list-style-type: none"> <li>○ Sexual orientation</li> <li>○ Transgender status</li> <li>○ Gender identity</li> </ul> </li> <li>▪ Religion</li> <li>▪ National Origin</li> <li>▪ Ancestry</li> <li>▪ Handicap (Disability)</li> </ul>

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EMPLOYMENT POLICIES - \$400

DWIGHT SHRUTE VIOLATED THIS POLICY WHEN HE REFUSED TO VISIT DUNDER MIFFLIN CUSTOMERS WITH PAM AND KAREN BECAUSE HE BELIEVES WOMEN ARE BAD DRIVERS

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### QUESTION:

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## POLICY CONTENTS

- Define and Describe Discrimination
  - Making employment decisions on basis of *protected characteristics* (identified in EEO Policy), rather than merit
  - Can occur at all stages of the employment relationship
- Define and Describe Harassment
  - Unwelcome conduct based on a *protected characteristic* that:
    - Becomes a condition of employment; or
    - Creates a hostile work environment
  - Not limited to sexual harassment
  - Can be verbal, visual, or physical (describe)
  - Provide examples in policy

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## POLICY CONTENTS

- Reporting Procedure
  - Two points of report
  - Employees should report any incident of harassment (whether directed at employee, or they observe others being harassed)
  - Written complaint form
- Investigation
  - Company will investigate all complaints/reports
  - Confidentiality not guaranteed (need to conduct interviews)
- Retaliation
  - Prohibited
  - Procedure to report retaliation

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## HARASSMENT REFRESHER

<h3>Harassment by Manager</h3> <ul style="list-style-type: none"><li>▪ Employers are <i>vicariously liable</i> for <i>acts</i> or <i>omissions</i> of its managers and supervisors<ul style="list-style-type: none"><li>◦ "Acts" - Affirmative Conduct</li><li>◦ "Omissions" - Failure to Act</li></ul></li><li>▪ Supervisory employees can be held <i>personally liable</i> for their own conduct (acts and omissions)</li></ul>	<h3>Harassment by Co-worker</h3> <ul style="list-style-type: none"><li>▪ Employers <i>may</i> be held liable for harassment by co-workers if they:<ul style="list-style-type: none"><li>◦ Knew or should have known of the harassment; and</li><li>◦ Failed to take prompt, effective, remedial action</li></ul></li><li>▪ <i>Faragher-Elzerth Defense</i><ul style="list-style-type: none"><li>◦ No adverse employment action</li><li>◦ Employer exercised reasonable care to prevent/promptly correct behavior</li><li>◦ Employee failed to take reasonable action, including corrective procedures provided by employer</li></ul></li></ul>
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## EEOC 2024 HARASSMENT GUIDANCE

- Updates aimed at addressing workplace harassment in virtual or hybrid work environments
- New guidance for harassment based on:
  - Race and Color
  - Pregnancy, Childbirth, or Related Medical Conditions
    - Lactation, using or not using contraception, or deciding to have, or not to have, an abortion
  - Sexual Orientation and Gender Identity
    - "Outing" - disclosing an individual's sexual orientation or gender identity without permission

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EMPLOYMENT POLICIES - \$600

GEORGE COSTANZA CITES THIS POLICY TO REQUEST A PRIVATE ACCESSIBLE BATHROOM AT WORK

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QUESTION:

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AMERICANS WITH DISABILITIES ACT (ADA)

- Purpose
  - Eliminate discrimination against individuals with disabilities
- Covered Employers
  - Private employers with 15 or more employees
  - Public employers, regardless of the number of employees
- Employer Obligations
  - Engage in the interactive process with employee
  - Provide reasonable accommodations to enable qualified employees with a disability to perform essential job functions

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PA HUMAN RELATIONS ACT (PHRA)

- Purpose
  - Equal employment opportunities regardless of handicap, disability, use of guide/support animals due to blindness, deafness, or handicap (plus all other protected classes)
- Covered Employers
  - Private employers with 4 or more employees
  - Public employers, regardless of the number of employees
- Employer Obligations
  - Same requirements as the ADA

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**PREGNANT WORKERS FAIRNESS ACT (PWFA)**

- **Covered Employers**
  - Private and public employers with **15 or more** employees
- **Protected Conditions**
  - **Pregnancy**
    - Includes current, past, potential, or intended pregnancy
  - **Childbirth**
    - Includes labor and delivery
  - **Related medical conditions**
    - Medical conditions which relate to, are affected by, or arise out of pregnancy and childbirth
    - Examples: lactation, fertility treatments, miscarriage, stillbirth, abortion, endometriosis, preeclampsia, use of birth control, menstruation, etc.

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**PREGNANT WORKERS FAIRNESS ACT (PWFA)**

- **Employer Obligations**
  - Provide reasonable accommodations for employees with **known limitations** related to pregnancy, childbirth or related medical condition unless doing so would create an undue hardship
  - Must provide accommodation even if employee is not "disabled"
- **Employees are qualified even if they cannot perform one or more essential functions, if:**
  - The inability to perform an essential function is temporary;
  - The essential function could be performed in the near future (40 weeks); AND
  - The inability to perform the essential function can be reasonably accommodated

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**POLICY CONTENTS**

- **Definitions**
- **Procedure to Request Accommodation**
  - Requests should not go to managers
  - Accommodation Request Form
- **Interactive Process**
  - Provide general description of interactive process
  - Employee may be required to submit medical documentation in support of request
  - Possibility of medical examination

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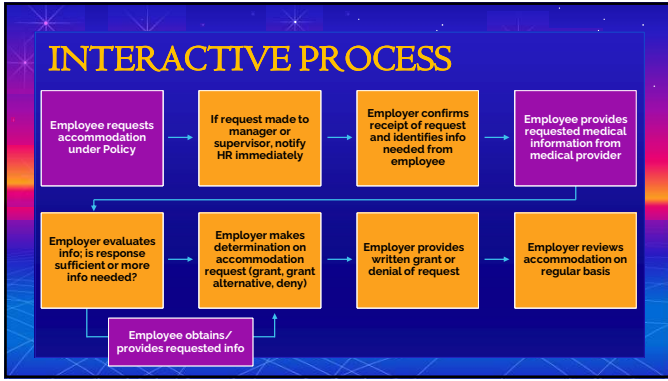
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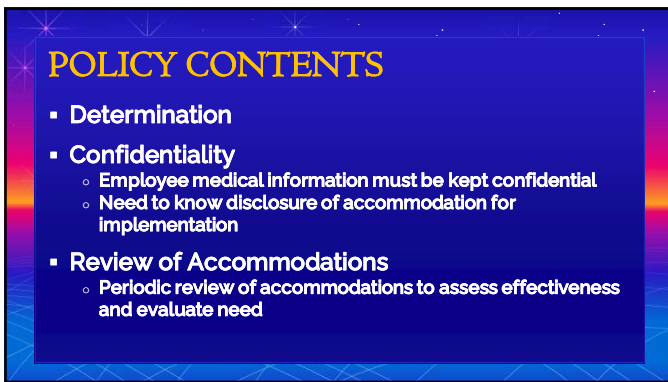
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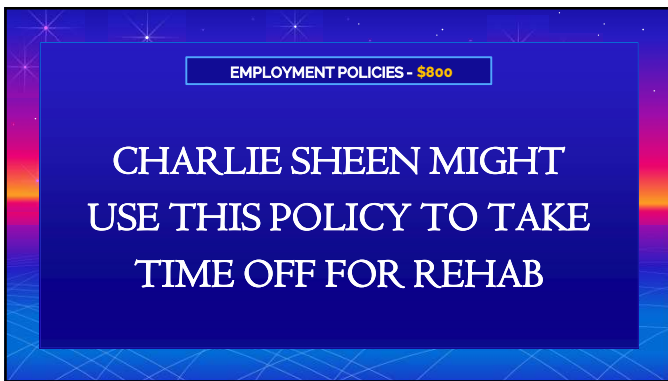
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**QUESTION:**

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**FMLA – 50 OR MORE EMPLOYEES**

- Provide up to twelve (12) weeks of unpaid, job protected leave to eligible employees:
  - Incapacity due to pregnancy, prenatal medical care or childbirth;
  - Care for employee’s child after birth, or placement for adoption or foster care;
  - Care for employee’s spouse, son, daughter, or parents, who has a serious health condition;
  - Serious health condition that makes employees unable to perform their job; and
  - Organ and tissue donation (PA Living Donor Protection Act)

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**FMLA – POLICY CONSIDERATIONS**

- 12-Month Period
  - Calendar year
  - Any fixed 12-month period (anniversary date, fiscal year)
  - 12-month period measured forward
  - Rolling 12-month period measure backward
- Substitution of Paid Leave
- Payment of Health Insurance Premiums
- Spousal Limitation
  - Birth / Placement of child for adoption
  - Care for parent with serious health condition

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**MEDICAL LEAVE – LESS THAN 50**

- Voluntary Benefit
- Policy Considerations
  - Amount of leave
  - Reasons for leave
  - Maintenance of health benefits while on leave (and payment requirement)
  - Eligibility/accumulation of other benefits while on leave (vacation, sick, PTO, holidays)
  - Job restoration

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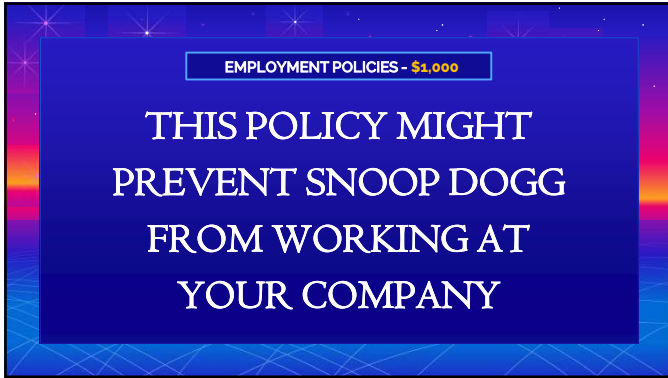
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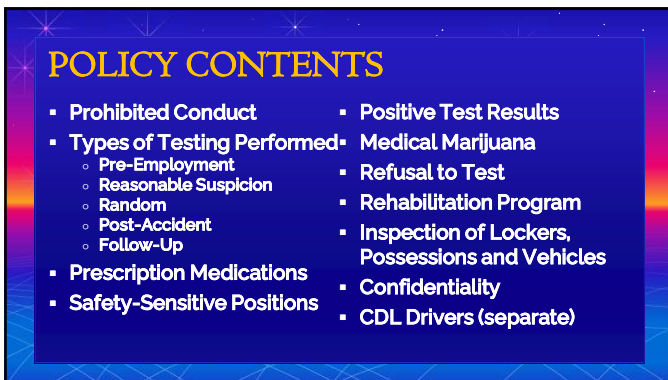
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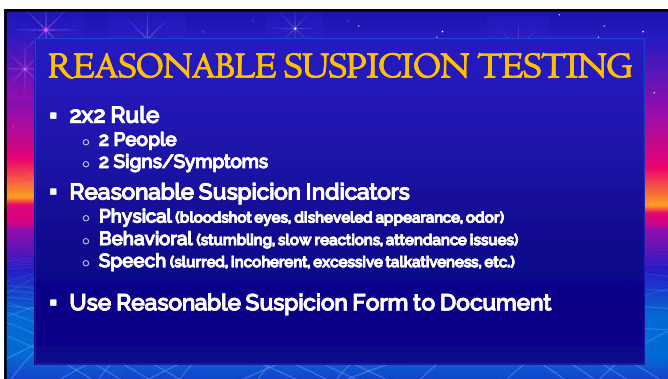
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## MEDICAL MARIJUANA

- Legal under PA Medical Marijuana Act (2016)
- Permits use for 24 enumerated medical conditions
  - Physical Conditions (e.g. cancer, Epilepsy, Crohn's, Parkinson's Glaucoma, neuropathy, chronic pain)
  - Mental Conditions (e.g. anxiety disorders, PTSD)
  - Opioid addiction therapy
- Requires physician certification, annual registration, and medical marijuana ID card
- Creates a regulatory structure for growing and sales
- Prohibits employers from discriminating based on cardholder status

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## SAFETY SENSITIVE POSITIONS

- Safety-sensitive job duties:
  - Can affect the safety or health of the employee or others
  - Could cause death or serious bodily injury to the employee or others
- Job Descriptions should clearly identify:
  - "Safety-sensitive" indicator on job description form
  - Statement in position summary: *This is a safety-sensitive position*
  - Plain English description of job duties, physical demands, environment, PPE requirements (may include description of potential injuries)
  - Statement after relevant duties: *This is a safety-sensitive job function*

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## SAFETY-SENSITIVE APPROACHES

<p><b>NO PRE-EMPLOYMENT DRUG TESTING OR MARIJUANA IS EXCLUDED FROM EMPLOYER'S TESTING PANEL</b></p> <ul style="list-style-type: none"><li>▪ Labor shortages</li><li>▪ Drug testing does not indicate active impairment</li><li>▪ Testing reflects a single point in time, does not capture ongoing use</li><li>▪ Client requirements (employees going on client sites)</li><li>▪ Liability concerns</li></ul>	<p><b>EMPLOYEES TREATING WITH MEDICAL MARIJUANA ARE NOT PERMITTED TO HOLD SAFETY-SENSITIVE POSITIONS</b></p> <ul style="list-style-type: none"><li>▪ Law does not prohibit employees who use medical marijuana from holding safety-sensitive positions</li><li>▪ <i>Clark v. J.R.K. Enterprises</i> – having marijuana in system constitutes being "under the influence"</li><li>▪ Prohibition must be based on active use/treatment, <b>not</b> cardholder status</li></ul>	<p><b>ATTESTATION THAT EMPLOYEE WILL NOT REPORT TO WORK WHILE UNDER THE INFLUENCE</b></p> <ul style="list-style-type: none"><li>▪ Off duty use treated similarly to alcohol</li><li>▪ Safety-sensitive employees required to sign attestation <b>and/or</b> provide certification from doctor</li><li>▪ Requires review/update of reasonable suspicion policy</li></ul>
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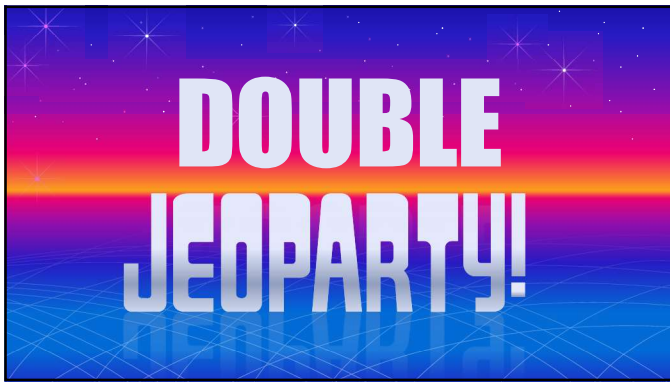
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FOODS THAT END IN "AMBURGER"	CURRENT U.S. PRESIDENTS	MAKE ANY NOISE	EMPLOYMENT POLICIES	MOVIES THAT START WITH "JAWS"	WHAT COLOR IS GREEN?
\$400	\$400	\$400	\$400	\$400	\$400
\$800	\$800	\$800	\$800	\$800	\$800
\$1200	\$1200	\$1200	\$1200	\$1200	\$1200
\$1600	\$1600	\$1600	\$1600	\$1600	\$1600
\$2000	\$2000	\$2000	\$2000	\$2000	\$2000

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EMPLOYMENT POLICIES - \$400

THIS POLICY REQUIRES  
EMPLOYEES TO CLOCK IN  
AND OUT FOR THEIR  
WORK SHIFT

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QUESTION:

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FAIR LABOR STANDARDS ACT

- FLSA/PMWA require that:
  - Hourly employees be paid for all "hours worked"
  - Employers keep an accurate record of time worked to calculate hourly employee pay and benefits
- Hours worked
  - All time actually spent on the job performing the assigned tasks (even if not approved – *suffer or permit to work*)
  - Travel time from home to work and from work to home is not considered time worked
  - Travel time from work site to work site as a necessary business activity is considered time worked

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POLICY CONTENTS

- Recording Time
  - Method for recording time (may have more than one for laborers vs. admin staff)
  - Time limitation on early clock-in, clock-out
- Employee Verification
  - Hours reported are accurate
- Prohibit Recording Time for Others

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**POLICY CONTENTS**

- Overtime
  - Must be approved in advance
  - Must pay for unapproved overtime, may discipline
- Correction Process
  - Process for employees to report uncompensated work (remote work, auto-deducted breaks)

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EMPLOYMENT POLICIES - \$800

**UNDER THIS POLICY, DUNDER MIFFLIN'S SALES REPS ARE PAID DIFFERENTLY THAN ITS WAREHOUSE EMPLOYEES**

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**QUESTION:**

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**FLSA CLASSIFICATION**

- Non-Exempt (Hourly)
  - Paid on an hourly basis
  - Entitled to overtime pay (time-and-a-half for all hours worked in excess of 40 in a work week)
- Exempt (Salaried)
  - Paid on a salary basis – pre-determined amount
  - Must perform exempt job duties
    - Administrative
    - Executive
    - Professional
    - Outside Sales

"White Collar Exemptions"

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### NEW OVERTIME RULE

- July 1, 2024:
  - White Collar Exemptions: \$43,888 per year (\$844/week)
  - Highly Compensated Exemption: \$132,964
- January 1, 2025:
  - White Collar Exemptions: \$58,656 per year (\$1,128/week)
  - Highly Compensated Exemption: \$151,164
- July 1, 2027:
  - Salary thresholds will automatically update
  - Every three years thereafter

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### BENEFITS CLASSIFICATION

- Regular Full-Time
- Part-Time With Benefits
- Part-Time Without Benefits
- Temporary
- Seasonal
- Introductory

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EMPLOYMENT POLICIES - \$1,200

### THIS POLICY PUTS VACATION, SICK TIME, AND PERSONAL TIME IN THE SAME BUCKET

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### QUESTION:

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**POLICY CONTENTS**

- **Eligibility**
  - Which employees are eligible?
  - When do employees become eligible?
- **Accrual**
  - Accrual schedule
  - All hours in bank
  - Accrue throughout year (borrow ahead?)
- **Scheduling**
  - How far in advance?
  - Minimum unit/Increment
  - Sick absences

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**POLICY CONTENTS**

- **Carry Over**
  - How much: all, none, some (capped)
  - Rep. Mary Jo Daley (Montgomery) pushing to limit how employers utilize "use it or lose it" paid time off policies
- **Pay Out at Separation**
  - Not legally required in Pennsylvania
  - May voluntary pay out
    - Accrued but unused
    - Under certain conditions (voluntary quit, work notice period)

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EMPLOYMENT POLICIES - S400

UNDER THIS POLICY, DWIGHT SHRUTE COULD ASK DUNDER MIFFLIN PAY FOR HIM TO PURSUE A DEGREE AT PENN STATE SHENANGO

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**QUESTION:**

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**“TRAPs”**

- **Training Repayment Agreement Provisions**
  - Require workers to reimburse employers for training or education expenses if they leave employer before a specified date
- TRAPs receiving increased scrutiny from federal and state regulators
- PA HB608 (2023) – proposed bill to ban TRAPs in PA; not passed

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**POLICY CONSIDERATIONS**

- What training/education qualifies for payment?
- Will funds be advanced or reimbursed?
- What are the performance criteria for payment?
- What is the required employment period?
  - Is there a reasonable relationship between amount paid and required employment period?
  - Will repayment obligation be reduced for each completed year of employment?
- Will signed agreement be required – **YES!**

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EMPLOYMENT POLICIES - \$2,000

**THIS POLICY PROHIBITS  
MICHAEL SCOTT FROM  
SELLING PRE-PAID CALLING  
CARDS AT THE OFFICE**

48

**QUESTION:**

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**POLICY CONTENTS**

- Can prohibit solicitation and distribution during *working time*
- Cannot prohibit solicitation during non-work time (before and after work, breaks)
- Cannot prohibit distribution in non-work areas (parking lots, break rooms)
- Must uniformly enforce

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**FINAL JEOPARTY!**

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**QUESTIONS?**

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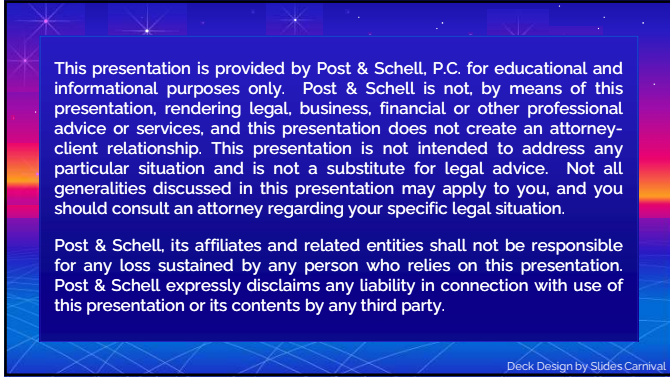
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