Contents of Indiana Guide to Hiring and Firing (8th Edition)

Introduction 23
- **A Word About Organization 23**

Chapter 1: Pre-Hire Considerations 25
- **Job Advertisements 25**
- **Job Description 26**
- **Job Applications 27**
- **Accommodating the Disabled in the Application Process 31**
- **Lawful and Unlawful Questions of Applicants 32**
- **Interviewing the Applicant 36**
- **Pre-Employment Testing 39**
- **Employment Reference Checks 42**
- **Internet Background Research 43**
- **Credit Checks 44**
- **Criminal History Checks 45**
- **Arrests 45**
- **Convictions 46**
- **The Offer of Employment 46**
- **Restrictive Covenants 47**
- **Withdrawing Offers of Employment 49**
- **Immigration Information to Obtain from Applicants 50**
- **Temporary Employees 53**
- **Unpaid Interns 54**
- **Youth Employment/Child Labor 54**
- **Independent Contractors 55**

Chapter 2: Reasons for Rejecting an Applicant 57
- **Accommodation of Disability 57**
- **Age 58**
- **Current Alcohol or Drug Use 59**
- **Appearance 60**
- **Arrest and Conviction Record 60**
- **Attendance 61**
- **Blacklisting 61**
- **Communicable Disease 61**
- **Dependent Children 62**
- **Disability 62**
- **Education Requirements 63**
- **Employment References 63**

Falsification of Job Application **63**
Family Issues (Non-Disability) **64**
Full-Time Employee Rule **64**
Genetic Information **64**
Honesty and Graphology Tests **65**
Immigration Status **65**
Inability to Speak English **66**
Inability to Work the Necessary Schedule **66**
Insurance-Related Issues **67**
License or Certification Requirements **68**
Marital Status **68**
Military Status **68**
Nepotism **69**
Negligent Hire **69**
Political or Social Opinions **70**
Polygraph Tests **70**
Preference of Coworkers and Customers **71**
Pregnancy **72**
Qualifications **72**
Race or National Origin **72**
Rehire of Former Employee **73**
Religion and Accommodation of Religious Practices **73**
Sex **74**
Sexual Orientation and Gender Identity **74**
Skills Testing **75**
Smoking and Tobacco Use **75**
Social Security Numbers **76**
Union Activity and Union Organizers **77**
Weight and Height Requirements **77**
Worker's Compensation History **78**

Chapter 3: Post-Hire Considerations **79**
New Hire Reporting **79**
Employee Handbook **79**
Employment Contract **80**
Investigating Conduct Warranting Discipline **80**
Disciplinary Interview **85**
Documenting Discipline **86**
Progressive Discipline **87**
Performance Reviews **88**
Defamation **90**
Retaliation **91**
Arbitration **92**

Return-to-Work Considerations Following Government-Ordered Health and Safety Lockdown **93**
Nursing Mothers **94**
Privacy Concerns **94**
Unemployment Compensation Proceedings **95**
Worker's Compensation Proceedings **96**

Chapter 4: Discipline and Termination **105**
Accommodation of Disability **105**
Age **106**
Alcohol and Drug Use and Testing **106**
Appearance **107**
Arrest and Conviction Record **107**
Assault on a Fellow Employee **108**
Attendance **109**
Attitude **110**
Benefits Costs **110**
Cellular Phones, Smart Phones and Portable Electronic Devices **111**
Clothing **111**
Communicable Diseases **112**
Confidential Information **113**
Conflict of Interest (Moonlighting) **115**
Constructive Discharge **115**
Critical Remarks About Employer, Product or Coworker **115**
Customer Complaints **116**
Dependent Children **117**
Difficulty in Dealing with Coworkers **117**
Disability (Self) **118**
Disability (Family) **118**
Discussing Wage or Benefit Information **121**
Discriminatory Conduct by an Employee **121**
Dishonesty **121**
Drug Use and Testing **122**
Email, Social Networking and the National Labor Relations Act (NLRA) **123**
Employee Handbook and Rule Violations **125**
Falsification of an Employment Application **125**
Falsification of Records **126**
Failure to Cooperate in Investigations **126**
Failure to Report an On-the-Job Injury **127**
Fighting **127**
Firearms **127**
Genetic Information **128**
Gossip **128**
Group Employee Activity **128**

Hairstyle or Length 129
Harassment 130
Horseplay 131
Immigration Status 131
Inability to Meet Job Standards and/or Perform the Job 131
Injury to a Coworker 132
Injuries on the Job 132
Injuries off the Job 133
Insubordination 134
Insurance-Related Concerns 134
Jury Duty and Witness Duty 135
Marital Status 135
Military Status 135
Negligent Retention 137
Nepotism 137
No Cause 138
Pay Disputes 138
Political Orientation 139
Pregnancy 139
Race 140
Religion 141
Retaliation 142
Sabotage 142
Safety Violations 142
Sex 143
Sexual Harassment 143
Sexual Orientation and Gender Identity 146
Strike-Related Misconduct 146
Sleeping on the Job 147
Theft 147
Trade Secrets Disclosure 148
Union Activity 148
Violence and Outbursts of Temper 149
Vulgar or Obscene Conduct 150
Weapons in the Workplace 150
Weight and Height 150
Whistle-Blowing 150

Chapter 5: Layoff Procedures 153
Circumstances Warranting Layoffs 153
Procedures for a Reduction in Force 153
Layoff Notices (Including Bargaining) 154
WARN Requirements 155

Chapter 6: Entitlements and Obligations on Separation.....157
Final Pay 157
Severance Pay 157
Vacation Pay 157
Sick Pay..... 158
Bonuses and Commissions..... 158
Medical Insurance Continuation (COBRA)..... 159
Service Letter 159
Access to Personnel File..... 160
Access to Medical File 160
Company Property and Trade Secrets 161
Restrictive Covenants..... 161

Chapter 7: Responding to Information Checks About Employees 163
Defamation..... 163
Employment References..... 164
Employees Subject to Restrictive Covenants and Other Employment Restrictions 165

Appendix A: Recordkeeping Requirements 167

Appendix B: Employment Discrimination Statutes.....171

Appendix C: Glossary of Terms 173

Appendix D: Form I-9 (Employment Eligibility Verification) 177