

Employment at Carleton

Leadership Essentials Presentation
November 30, 2017

Employment Law 101

Statement of Non-Discrimination

Equal opportunity for all is an essential part of Carleton's recognition that diversity expands the Carleton community's intellectual horizons and enriches the teaching, working, living and learning environment. Carleton College is committed to the principle that its educational facilities, activities and employment opportunities shall be offered **without regard to race, color, creed, ethnicity, religion, sex, national origin, marital status, veteran status, actual or perceived sexual orientation, gender identity and expression, status with regard to public assistance, disability, or age.**

Workplace Protections

Protected Class (who)

- Race
- Color
- Creed
- Ethnicity
- Religion
- Sex
- National origin
- Marital status
- Veteran status
- Actual or perceived sexual orientation
- Gender identity and expression
- Status with regard to public assistance
- Disability
- Age

Protected Activity (what)

- Filing a Workers' Compensation claim
- Concerted/union/organizing activity
- Jury duty
- Military duty
- Consulting an attorney
- Filing a Charge of Discrimination with EEOC
- Raising a complaint of discrimination
- Participating in an investigation of discrimination
- Reporting conduct by an employer that is criminal or creates a hazard to the public health and safety ("whistle-blower claims")

Major Non-discrimination Statutes/Laws

Civil Rights Act of 1866 & 1991

Equal Pay Act of 1963

Title VII & Title IX Civil Rights Act of 1964

The Age Discrimination Act of 1967 & 1975

Rehabilitation Act of 1972 & 1973

The Pregnancy Discrimination Act of 1978

Immigration Reform & Control Act of 1986

American Disability Act of 1990 & Amendments

MN Human Rights Act of 1993

Family Medical Leave Act of 1994

Genetic Information Nondiscrimination Act of 2008

Lily Ledbetter Fair Pay Act of 2009

Uniformed Services Employment & Reemployment Rights Act of 1994

MN Ban the box 2014

Harassment in the workplace

- Unwelcome verbal, written or physical conduct
- Defamation or hostility towards a person
- Based on protected status
- Creates intimidating, hostile, offensive work environment
- Severe and pervasive

At-will Employment

Staff employment with the College **is not for any set period of time** unless an individual is hired under the provisions of a letter of appointment which specifies length or conditions of employment. In other cases, the College or an employee may choose to end their work relationship at any time and for any lawful reason.

At-will Employment

Unlawful reasons are generally based upon:

- A protected class (who the employee is)
- Protected activity (what the employee does)

Fair Labor Standards Act ([FLSA](#))

- Enacted to protect workers
 - Establishes Federal minimum wage
 - currently **\$7.25**
 - Overtime pay
 - Record keeping and posting requirements
 - Child labor requirements

- MN minimum wage \$9.50, increasing to \$9.65 on January 1, 2018



Fair Labor Standards Act (FLSA)

Established exemptions from FLSA:

- Salary Basis Requirement
 - \$455 per week
 - No prorating
- Exemption Tests
 - Executive
 - Administrative
 - Professional
 - Outside Sales
 - Computer Employees

Exempt (from what?)

- Do not qualify for overtime
- No record keeping responsibilities
 - Flexible scheduling permissible
 - Comp-time prohibited
 - Must work hours necessary to complete responsibilities



Non-Exempt

Must be no less than paid minimum wage

Must be paid overtime

Time Recordkeeping requirements

MN Law

Requires restroom time every 4 hours

Sufficient time to eat a meal for employee who work 8+ hours.

Carleton Policy

Paid 15 minute break for every 4 hours worked

Unpaid meal break of 30 minutes to 1 hour if scheduled 6+ hours

FLSA Responsibilities

- **Non-exempt Staff responsibility**
 - ✓ Record **all** time worked **daily** via Web-time Entry
 - ✓ Record actual time (no more rounding)
 - ✓ Record time accurately
- **Managers' responsibilities**
 - ✓ Communicate expectations
 - ✓ Approve overtime in advance
 - ✓ Verify hours worked and time-off
 - ✓ Approve time recorded bi-weekly
- **HR/Payroll responsibility**
 - ✓ Keep records on file



FLSA Overtime Responsibilities

- Overtime must be paid at 1.5 hours regular rate
- Non-exempt employees must be paid overtime for all hours worked over 40 in the workweek including:
 - Unauthorized hours
 - Volunteering to work extra hours with no pay
- “Comp-time” is not permitted
- Employees may be subject to disciplinary action if they do not obtain advance approval from supervisor to work overtime

Areas of Concern

- Working “off the clock”
 - arriving early to get a “jump start”
 - staying late to “finish-up”
 - checking email at home/phone
 - comp-time
 - working through lunch



Telework

Carleton College believes that the contribution of each employee is individually significant but has a multiplier effect as part of the team

- Short-term
- Meets needs of department
- Paid by salary
- Position does not include supervisor or student support
- Distraction free work environment available



FLSA & Travel Time

Paid Work Time

1. Driving that the employee is required to perform
2. Time when work is performed while traveling
3. Travel time during normal work hours



FLSA & Travel Time

Does not count as paid work time:

1. Home to work before and end of regular workday not compensable (normal commute)
2. Time outside of regular working hours as a passenger on an airplane, train, boat, bus, or automobile
3. A break in travel for meals
4. Time at the destination when the employee is free to come and go as they wish

Let's practice

FLSA & Volunteering

- All of the below criteria must be met to be considered a “volunteer”
 1. Services must be totally unrelated to employee’s position.
 2. Services must be offered freely without pressure or coercion.
 3. There should be no promise or expectation to be compensated for volunteer services.



Fair Labor Standards Act (FLSA)

U.S. Department of Labor, Wage and Hour

- **Criminal penalties for willful violation can result in prosecution & \$10,000 fine**
- **Civil penalties of up to \$1,100 for each violation**



Whistleblowing

- Whistleblowing occurs when an employee tells reports that the employer is engaged in some unsafe or illegal activity.
- Carleton has a Whistleblower Policy prohibiting retaliation



College policies

Any Questions?

Staff Recruitment at Carleton

- Recruiter
challenges.....

- Staff Recruitment Process for Supervisors
 - Online Resources

Our Workforce Statistics

Total employees from 2016 IPEDS (IRA)

811 total = 285 faculty, 526 staff.

FY Turnover Rates	2014	2015	2016	2017
Total Postings/Staff FTE	14.1%	18.4%	15.9%	15.1%
Total Postings/Staff Headcount	10.83%	14.10%	12.19%	11.8%

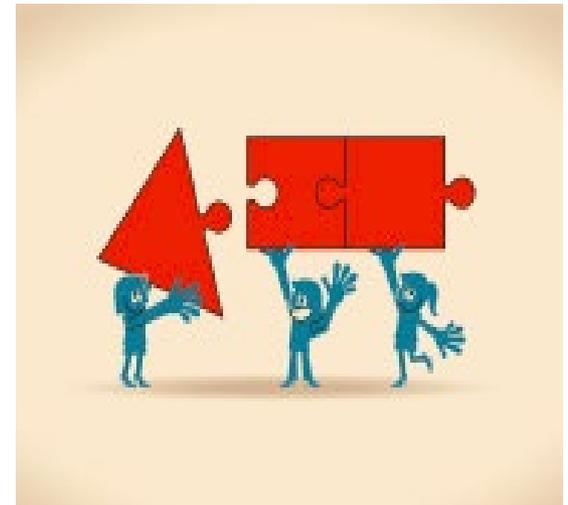
Carleton Turnover

8-1-16 to 8-1-17

- 53 in the group (Faculty & Staff)
- 20 Faculty
- 33 Staff
- Fun facts - Can you guess?
- Or model a Dashboard of stats for Carleton employees.
- Average tenure
 - 7.3 years
- Median years of service
 - 3.3
- Longest tenure
 - 36.5 years
- Average age
 - 43
- Retirements
 - 4 (staff only)
- Gender breakdown
 - 34 Female/19 male

Hiring – the payment puzzle.....

- Payment Classifications – IC or Employee
- Approval Process
 - HAF/PCF Forms
 - Replacement or new FTE
- Recruitment Process
- HR's Role
- Onboarding/First Year Engagement



Payment Classifications

- Determination - Independent Contractor or temporary employee
 - Behavioral Control
 - Financial Control
 - Type of Relationship
- Tools to assist:
 - Independent Contractor Review [Form](#)
 - Accounts Payable online work flow/electronic submission



Stipends

Question: A part-time bi-weekly employee has taken on an extra project that requires additional hours to their regular schedule. Can they be paid a stipend for the extra work?

Answer: No, this change represents a temporary FTE increase, the hiring supervisor needs to submit a Position Change Form.





Stipends

Question: A staff employee attends a LTC (Learning and Teaching Center) workshop, are they eligible to receive a stipend for attending the workshop in addition to their regular pay?

Answer: For bi-weekly employees, no they cannot be paid a stipend. However, according to FLSA, their time worked needs to be recorded and will be eligible for overtime.

Answer: For monthly employees, they can be paid a stipend if they are part-time and the workshop falls outside of their regular work schedule.

HR's role in the process

- Implementing best practices throughout
 - Advertising/Sourcing
 - Screening
 - Interviewing
- Making the offer
- Closing the deal
- Background checks
- Onboarding



“Everything on your resume is true ... right?”

UPWARD MOBILITY PROGRAM

Notices of job vacancies within the College will be posted as dictated by the Division Head and/or Department Head and as part of the Carleton Upward Mobility Program an employee may request to be considered for transfer to fill an opening.

- How it works
- Philosophy: Dual in nature. There are definite benefits to be gained by individuals within the community such as the opportunity for advancement, change, new direction, different interests, additional challenges, and so forth, and at the same time there is the advantage which the College accrues concurrently from increased career development and greater utilization of available skills and talent.

From the Employee Handbook

Statement on Diversity

(Add student profile vs. staff and faculty profile for comparison purposes.)

Implicit Bias in the Recruitment Process

- **Implicit bias** refers to the attitudes or stereotypes that affect our understanding, actions, and decisions in an unconscious manner.
- Are they the “right fit”?
 - be careful of this statement.
- Test yourself – Harvard Online Survey
- <https://implicit.harvard.edu/implicit/>
- (develop handout)
- [Lynda Training Modules re: Unconscious Bias – Conclusion – What’s Next.](#) (run this short video – 2 min)

Background checks - Onboarding

- **Background Checks**
 - Orange Tree – our online background check vendor.
 - MBCA – Finger print checks
- What happens when issues are presented?
- **Onboarding** is an important step in making the new employee feel like they are a part of Carleton
- [New Employee Checklist](#)
 - Nuts and bolts: IT access, keys, paperwork, office space, computer
- Provide with adequate resources and ongoing support to succeed
- The first 12 months critical to engagement!

Additional Resources

Questions?



Job Descriptions

- Reviewed annually together
- Mutual understanding of job expectations
 - Being busy is not the same as producing results
- Significant changes?
 - Re-evaluate job with HR



Job Evaluations

- Supervisors are involved in the evaluation process
- Promotes internal & external equity with competitive select market comparisons
- Consistency of criteria is used in evaluating all positions

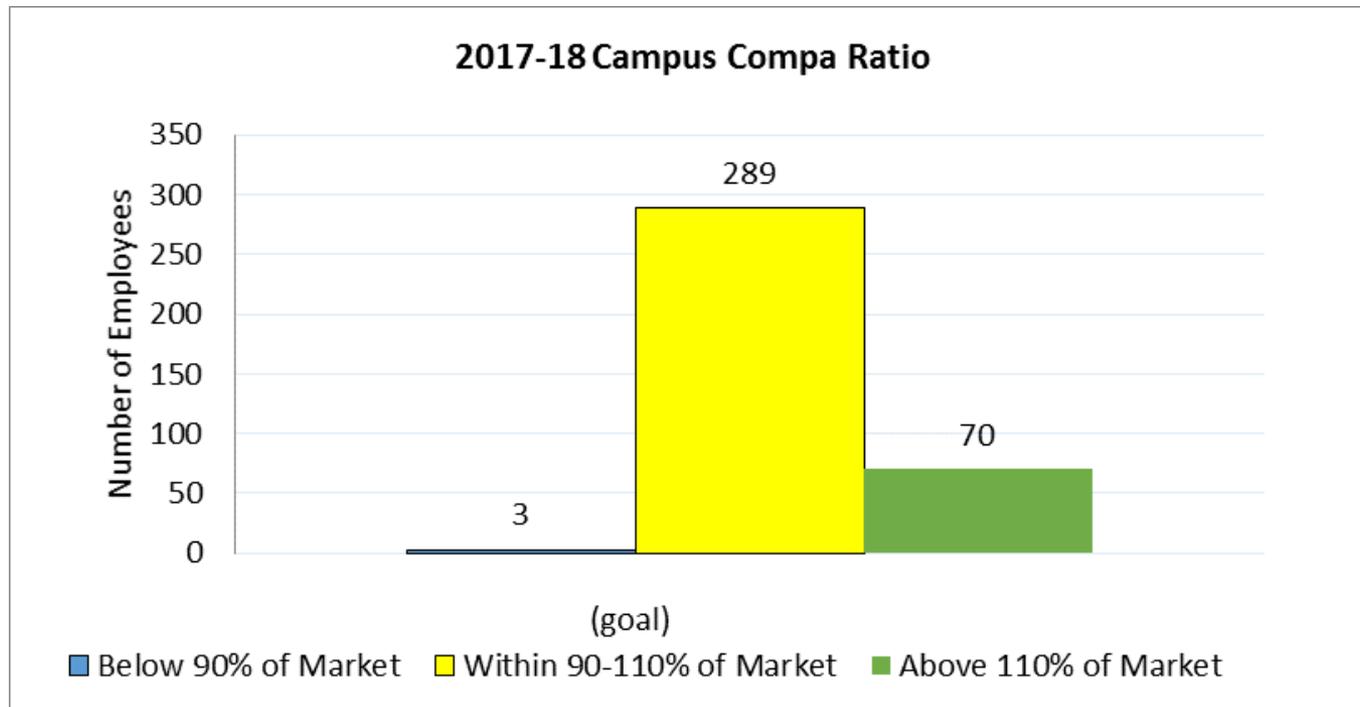
Job Evaluations continued

- Grades determined using same 10 criteria areas:
 - Experience
 - Education
 - Managerial responsibility
 - Interpersonal skill
 - Independent Judgment
 - Mental Process/Problem Solving
 - Organizational Impact
 - Organizational Restraint
 - Physical Safety
 - Working Environment

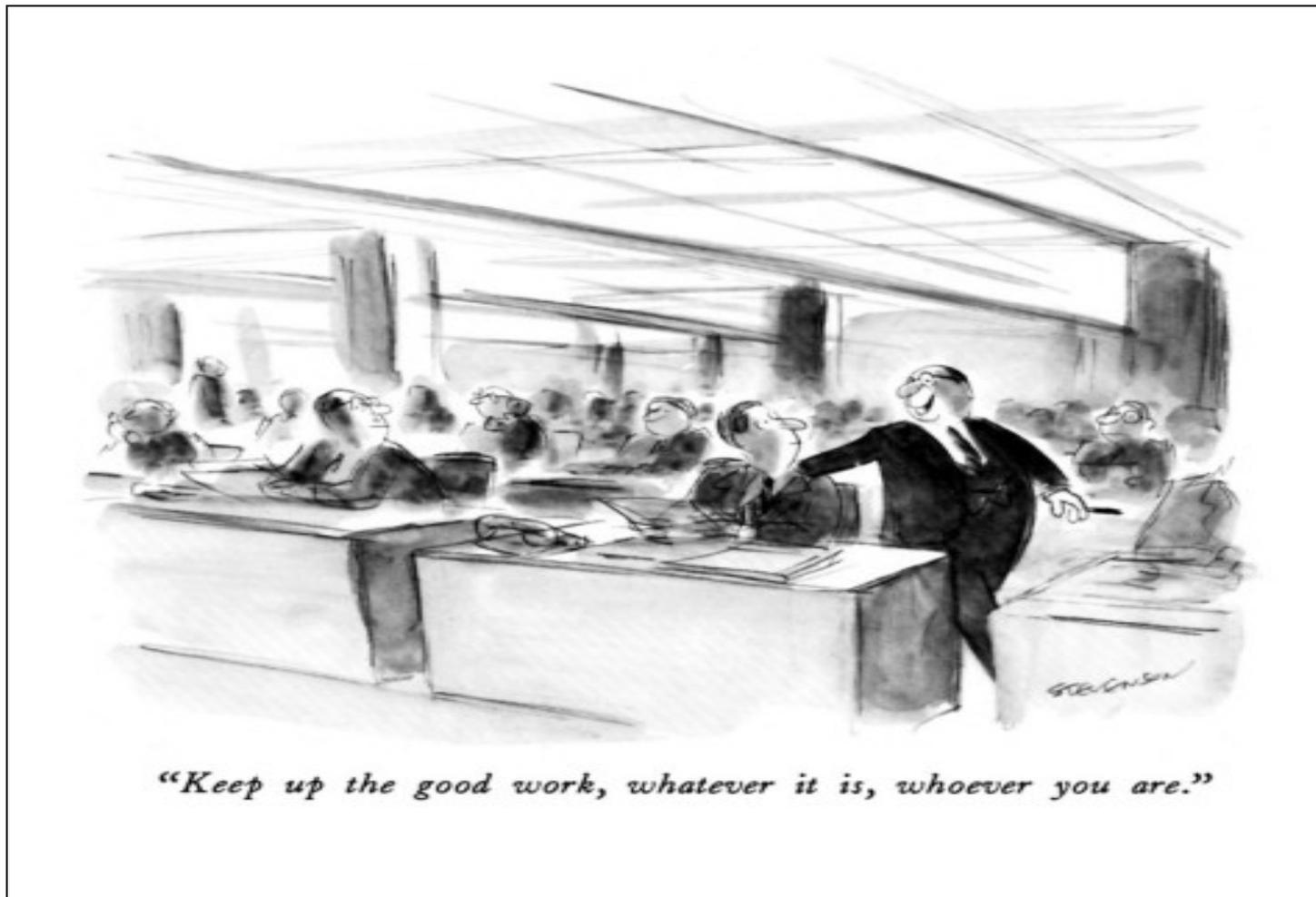
Salary Administration

- Market-point for a grade: the median pay of positions in the same or comparable jobs within the relevant labor market/industry, customized for Higher Ed using our 25 select comparison schools and regional business
- Compa Ratio of a salary: Calculated by dividing the employee salary by the market-point of the range
- Compa Ratio: 90-110% of the market-point.
 - Salaries below 90%: new to the position, in the learning phase or recent enhancements to job
 - Salaries above the 110%: extensive years of service or lateral transfer from another position

Carleton Staff Compa Ratio's



Performance Appraisals



Performance Appraisals



- At least once per year
- Goal: On-going discussions expected throughout the year so there are no surprises during the PA
- Supervisor should keep a file on employees successes/improvements to reflect on while completing the PA
- Discuss professional and job related goals and performance on those goals
- Development areas for the coming year

Performance Appraisal continued

- Action plan to address any issues/road blocks
 - Discuss their strengths and capabilities
 - Align individual's goals to College's Mission and Division/Department goals
 - Identify and prioritize desired results
- Supervisor's guide is available on HR website or contact HR for assistance



When Performance Issues Arise

- Documentation is critical
 - Include date
 - Verbal discussions vs. written – still document the discussion
 - Brief description of the occurrence/event
 - Examples - saved emails or other samples enhance clarity
 - PIP template available through HR, in addition to HR assistance

PIP template:

- Ensures employee understands why the action is unacceptable and reiterate the expectations
- Reflect/discuss on what obstacles have led to the performance issue
- Use active listening skills: listen, ask questions, and allow silence

PIP Feedback & Action Plan

- Employee reflects on and restates their understanding of what needs to improve and the expectations
- Employee describes a plan of action on how they intend to improve and accomplish the expectations
- Provide needed resources/training/coaching
- Provide on-going feedback, recognition and praise

Termination Process

- Meet with HR to discuss the process and the timing
- Forward all documentation to HR
- Supervisor & HR meet with employee
 - Avoid emotional reactions, treat with dignity and respect
 - Ensure confidentiality
- Retrieve College property (keys, credit card, One-card, laptop)
- HR processes benefits and contacts ITS to end computer access and One-Card access to buildings

Employee Leaves of Absence

- Personal Leave
 - Application form available through HR
 - Personal leaves are at Carleton’s discretion
 - Appropriate absent accruals will used
 - All applications are submitted to HR to track and to ensure leaves are designated appropriately and all applicable laws are followed.



Family Medical Leave Act (FMLA Leave)

- Protected medical leave for up to 12 weeks in a rolling 12 month period
 - Birth or adoption of a child,
 - Serious health condition of employee, spouse, domestic partner, parent or child or
 - Military related leave for self or family member
- Full-time leave in excess of 3 days (with hospital stay or continued treatments) or intermittent
- Employed 12 months or 1250 hours during the year
- Supported by a physician if for medical reasons

FMLA continued

- Supervisor or employee notifies HR when time off is needed (blocks of time or intermittent)
- HR processes the paperwork, track the leave and keep supervisor informed of time off and any return to work restrictions needed
- Carleton's benefit is up to 5 days/40 hours of fmla pay/yr
- Multiple fmla leaves through out the year but can not go over 12 weeks total

Americans with Disability Act (ADA)

- Carleton will make reasonable accommodations to a request from an employee with a qualified physical or mental disability as long as it is not an undue hardship to the College.
 - Reasonable accommodation may be a modification or adjustment to job duties (as long as essential functions are still met), modifications to workplace, schedules, equipment, training, additional leave time
 - Undue hardship would be a significant, disruptive, extensive, difficult or expensive accommodation for the College. Burden of proof falls on the College.

Funeral Leave

- 5 days for immediate family
 - wife, husband, child, mother, father, mother-in-law, father-in-law, sister, brother, grandchild, domestic partner or step family
- 1 day for extended family (plus 2 days of sick time if needed or vacation time)
 - grandparent, grandparent-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, uncle, aunt, cousin, niece, nephew
- 1 day for a co-worker or a friend
 - limit of 4 days per year

Parental Leave Benefit

- Is considered a FMLA leave - same eligibility requirements for the parental time off (birth or adoption)
- Carleton benefit: 12 weeks paid for Primary Caregiver and 3 weeks paid for Secondary Caregiver taken in a continuous time period at the time of birth/adoption of the child
- If both are Carleton employees, the 12 week paid benefit is shared between them
- Completed at least 1 year continuous work in a regular benefit eligible position (prorated based on budgeted FTE)
- HR completes paperwork and keeps supervisor informed



Other Leaves

- Jury Duty – College will supplement pay
 - Employee notifies supervisor and documents “civic duty” on electronic time sheet
- Voting – if employee asks to vote during work hours, time necessary to do this is paid
 - Employee notifies supervisor and documents “civic duty” on electronic time sheet
- Parental leave to attend school activities must be granted for up to 16 hours per year
 - Employee notifies supervisor and absent accruals are used



Workers' Compensation

[Work Accident](#)

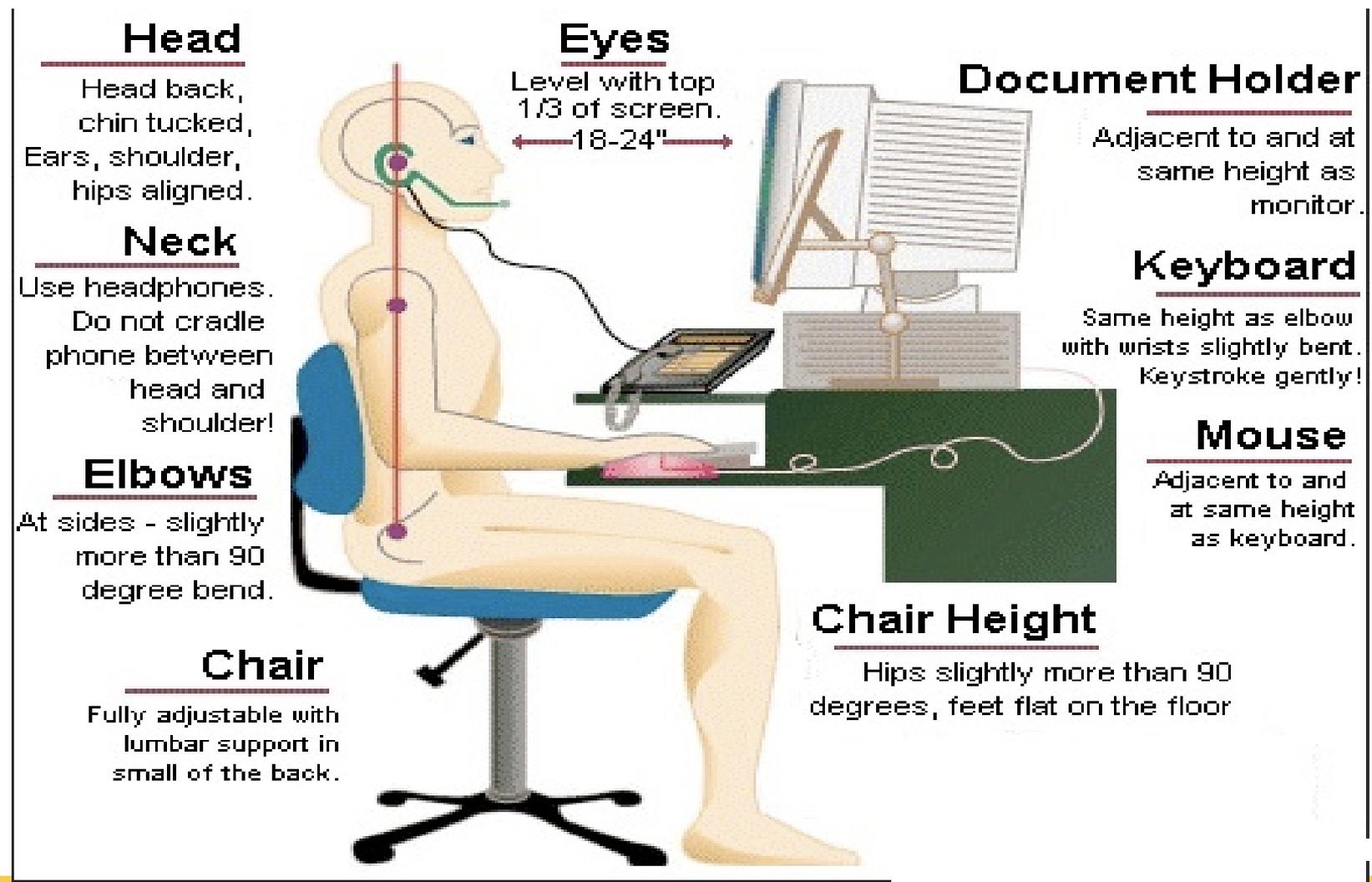
- Reports are available through HR website and filled out the day of the accident with the supervisor/HR
- Accident Reports forwarded immediately to HR to process (HR has 3 days to file report a loss time claim)
- HR meets with injured employee to provide insurance information/required documents and answer questions
- HR monitors the claim and is a resource to the employee until they have fully recovered



Workers' Compensation continued

- Per State of MN, first 3 days of missed work time are not compensated by Work Comp insurance, absent accruals are used instead, additional time missed may be paid at 2/3 of gross pay
- Loss time due to work comp injury is considered FMLA time
- Absent accruals used for doctor appointments and therapy appointments
- Carleton's philosophy: best to return employees to work asap and make every effort to accommodate restrictions

Workstation Analysis



Ombuds Office

A resource - workplace concerns for faculty & staff

The Ombudsman role includes:

- Coaching for individuals to resolve problems on their own
- Listening and discussing questions, concerns and complaints
- Assisting with generating possible options for resolution; weighing pros and cons
- Assisting with interpreting College policies and procedures
- Referrals to appropriate individuals or offices
- Referrals to formal grievance when appropriate or when informal processes have been exhausted

Ombuds Office continued

The Ombudsman role does not include:

- Providing legal advice
- Determining guilt or wrongdoing of anyone involved
- Psychological counseling or therapy
- Adjudicating or participating in formal grievance processes

An avenue for employees to bring forward concerns or issues that campus leadership may not be aware of or fully understand. While not a substitute for normal channels of communication, it can serve as a vital alternative when something is not surfacing in other more established ways.

Questions?

Recognizing Qualifying Events

- Qualifying events allow changes in benefits outside of open enrollment
- Events include: marriage, divorce, birth of a child, death of a dependent, spouse gaining or losing other coverage
- Refer employees to HR to review coverage

This Is Not Tax Advice

- Employees who have reached retirement age but are still working can consider deferring both Social Security benefits and Medicare enrollment
- Medicare Part A enrollment is automatic with Social Security
- Medicare = no HSA, no Blue Plan

Paid Time Off Refresher

	Exempt	Non-Exempt
Vacation	20 days per year	Start: 2 weeks/year 5 Years: 3 weeks/year 10 years: 4 weeks/year
Sick	1 day for each month worked	
Holidays	New Years Day, July 4, Labor Day, Thanksgiving Day, Christmas Eve, Christmas Day, College-designated holiday	
Floating Holidays	Up to 3 days per year	

- Table based on 1.0 FTE
- .46 to 1.0 FTE pro-rated
- Under .46 FTE not eligible

Long-Term Disability

- Enroll at any time (subject to EOI)
- Income protection
- Incentives to return to work on trial basis
- Can be used after FMLA runs out
- Does not guarantee same job upon return

COBRA

- [COBRA](#) prohibits the discontinuance of insurance benefits of workers who have voluntarily or involuntarily been separated from work, unless the involuntary separation was on the basis of gross misconduct.
- Insurance rate is 102% of total premium.

If your leave is 6 months or less, you are eligible to continue to receive the College contributions to the College provided benefits, if beyond 6 six months, COBRA rates start and you pay the entire premiums on any insured benefit plans in which you participate.

Employee Assistance Program (EAP) Services



- EAP services: personal, medical or family related issues
 - Legal, Wills, ID Theft, Nutrition, Child Care, etc.
- All members in the household
- Consults with supervisors who are struggling with an employee's behavior that is impacting the workplace
 - Consults with employee at supervisor's request
- Refer employees and colleagues to EAP for assistance with workplace or personal issues.

Everfi

- Haven Sexual Misconduct Response (required)
- **New!** [Full catalogue](#) for Students and Faculty & Staff
 - Contact HR to review catalogue
 - Trainings can be set up campus-wide or on an individual basis as needed
- Topics include
 - Harassment & Discrimination
 - Data Security & Privacy
 - Health & Safety
 - Ethics & Conduct

Mandated Reporting

- All faculty and staff who learn of possible policy violations are required to report that information
 - Sexual harassment
 - Stalking
 - Intimate partner violence
 - Gender discrimination
- [Community Concern Form](#)
- [Contact Title IX Lead Team](#)

Lynda.com Pathways

- Self-paced online training
- 21 curated pathways
- Pathway examples:
 - Communication
 - Conflict Management
 - Diversity
 - Finance and Budgeting
 - Google Apps
 - MS Office
- Certificate upon completion

Training Resources

- Library available at HR
- Visit us or contact hr@Carleton.edu to check out a book or CD
- Additional professional development is managed at the department level
- HR can help source outside vendors

Questions?