

HR

Headscratchers

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The City of Elven & Shannon

The City of Elven & Shannon

- The City of Elven posted an Executive Assistant job (\$60K–\$90K/year).
 - Before posting, the City offered the current employee a retention bonus to stay, but the employee declined.
- Shannon, a college grad with a past felony drug conviction, applied.
 - The low end of the salary range would require Shannon to work a second job to cover her living expenses.
- She disclosed her conviction and got an interview.
- HR Director googled Shannon and reviewed her social media.
- HR noticed what seemed to be a hand disability and tattoos (including a teal ribbon, commonly associated with anxiety awareness).
- During the interview, HR asked:
 - About her physical abilities (typing)
 - About her tattoos
 - About club/organization membership
- Shannon got a conditional offer, pending a drug test.
- She disclosed her anxiety disorder and requested an emotional support animal as accommodation.
- HR now wants to know: Can the offer be revoked?

The City of Elven & Shannon

Takeaways: What Would You Do?

1. Can the City offer retention bonuses to employees?
2. Is it appropriate to reference “recently graduated” in a job posting?
3. Can the City restrict employees from holding second jobs?
4. Can the job application ask about criminal convictions?
5. Is it proper for HR to review an applicant’s social media before the interview?
6. Should HR ask about prior salary during interviews?
7. Is it lawful to ask about physical limitations (e.g., hand issues) pre-offer?
8. Should HR ask about the meaning of tattoos (e.g., awareness ribbons)?
9. Should HR inquire about clubs or organizations an applicant belongs to?
10. Can the City require a drug test before employment begins?
11. Can Shannon be disqualified if her drug test shows nonpsychoactive cannabis metabolites?
12. What rules apply to emotional support animals in the workplace?
13. Can a conditional offer be revoked due to health issue disclosures?



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Sam & the City's Shifting Priorities

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- Sam, a Strategic Advisor, includes she/her pronouns in her email and displays a Pride flag at her workstation.
- She answers coworkers' questions about her LGBTQ identity and support for gender-diverse communities.
- Sam is asked to help revise City materials based on new federal priorities, including:
 - Consulting legal on repealing anti-discrimination policies
 - Removing Juneteenth as a holiday
 - Taking down "All Gender" restroom signs
 - Scrubbing "DEI" terms from public materials
- Sam is also asked to join the hiring panel for a new City Manager.
- During the post-interview discussion, stakeholders express concern:
 - One objects to a finalist's use of they/them pronouns
 - Another worries that selecting a person of color will seem like a "DEI hire"
- Sam becomes upset and leaves the meeting.
- Afterward, a senior staff member, Sally, complains to leadership:
 - Upset about Sam's reaction in the meeting
 - Discomfort with Sam's Pride flag and pronouns
 - Says it is unfair that she cannot display religious symbols (like a picture of Jesus)

Sam & the City's Shifting Priorities

Takeaways: What Issues Are at Play?

1. How should employers respond to employee expression of identity (e.g., pronouns, Pride flags)?
2. Are there limits to personal expression at work? Does context matter?
3. What are the legal and practical concerns with:
 - Removing DEI-related language or policies
 - Asking an LGBTQ employee to lead such efforts
4. What if Sam's treatment is seen as retaliation or discrimination?
5. How should religious expression (e.g., photo of Jesus) be addressed in comparison?
6. What should leadership do about post-interview comments about race and pronouns?



Steve Peltin
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Surveillance & the City Manager's Wish List

Surveillance & the City Manager's Wish List

- City Manager wants to monitor in-office staff using:
 - Email review
 - Keystroke tracking
 - Security cameras
- For field employees, he wants:
 - Vehicle tracking (GPS and cameras)
 - Monitoring via phones and wearables
- You have concerns. What do you tell your client?

Surveillance & the City Manager's Wish List

Takeaways: Balancing Oversight & Employee Privacy

1. What privacy rights do public employees have in the workplace?
2. Notice and consent: What is required?
3. When is surveillance permissible vs. excessive?
4. Do different rules apply to field staff vs. office workers?
5. Is hidden surveillance ever okay?
6. What role do union contracts play?



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Fred's Style & the City's Standards

Fred's Style & the City's Standards

- Fred starts wearing strong fragrance and tight clothes.
- Coworkers complain of headaches and distractions.
- He also begins wearing politically sensitive hats/shirts and decorates his workspace with signs.
- What can the City Manager do?

Fred's Style & the City's Standards

Takeaways: Expression, Disruption & Workplace Expectations

1. Fragrance sensitivities: Accommodation or policy issue?
2. Clothing and appearance policies: What is enforceable?
Union issues?
3. Political expression: Protected or not?
4. Does disruption justify discipline?



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Barney's Tardiness & the City's Next Steps

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- Barney has poor attendance and frequent tardiness. Barney blames fatigue from another job and possible medication use (not prescribed).
- Two other employees in other departments had similar issues but were not fired (different departments).
- Supervisor wants to terminate.
- What more do you need to know before signing off?

Barney's Tardiness & the City's Next Steps

Takeaways: Consistency, Documentation & Discipline

1. Why have other employees been treated differently? What risks of perceived unequal treatment?
2. Is Barney entitled to medical accommodation?
3. Are there policy violations (moonlighting, drug use)?
4. Is there proper documentation of performance issues?



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Beth, Joe & Raquel: The City's Termination Trio

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Beth: Poor performance, claims whistleblower retaliation

Joe: Appears impaired - Manager wants to fire, HR wants drug test + last-chance agreement

Raquel: Termination delayed → discloses disability, reports injury, and files harassment complaint

What paths forward?

Beth, Joe & Raquel: The City's Termination Trio

Takeaways: Red Flags Before Letting Go

- 1. Beth:** How to terminate without a whistleblower claim? Does the timing matter? What documentation would be helpful?
- 2. Joe:** How to handle suspected drug use? Union issues?
- 3. Raquel:** Do disability disclosure, injury report and harassment claim delay or prevent termination? What investigation/documentation?



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Exits & Agreements: The City Wraps It Up

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- Employees are about to be terminated. HR and Manager ask:
 - What procedural rights apply? (Loudermill, Garrity?)
 - Should severance be offered? Same amount for each?
What if others got more in the past?
 - What should go into the separation agreement?

Exits & Agreements: The City Wraps It Up

Takeaways: Separation Terms, Rights & Risks

1. Key agreement terms: What to keep and what to reject?
 - Release – mutual?
 - Confidentiality – “Silenced No More”
 - Noncompete/Nonsolicit
 - Nondisparagement
 - Post-employment cooperation
 - Clawbacks
 - Release timelines and requirements (21/7/45 days, demographics)





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Emily's Leave & the City's Return-to-Work Challenge

Emily's Leave & the City's Return-to-Work Challenge

- Emily, a supervisor in IT, has 2 weeks of PTO and 1 week of personal leave.
- She unexpectedly misses a full week of work without notifying anyone.
- The following Monday, she calls and says she had a moderate stroke and is taking FMLA leave.
- She also says she has been approved for WA Paid Family & Medical Leave from April 2025 through April 2026.
- When she returns (date unclear), she says she:
 - Needs to work remotely 4 days/week due to light/noise sensitivity
 - Needs to bring a support animal on the 1 in-office day
- City policy requires all employees to be in office 3 days/week.
- Emily asks for reassurance that she can return to her supervisory role.

Emily's Leave & the City's Return-to-Work Challenge

Takeaways: Medical Leave, Accommodation & Job Reinstatement

1. What documentation should the employer request?
2. How do FMLA and WA PFML interact?
3. Does Emily's no-call/no-show week impact her leave rights?
4. Can the City require more in-office time despite her disability?
5. What is the difference between a service animal and an emotional support animal at work?
6. What are the rules around job restoration after protected leave?

Questions?



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