



Keep It Legal: Key Concepts for Managing Legally

Why is this training necessary?

- A total of 84,254 workplace discrimination charges were filed with the Equal Employment Opportunity Commission (EEOC) nationwide during fiscal year 2017.
- At 87%, discrimination claims make up the majority of complaints that go on to lawsuits.
- In a dispute between an employee and employer, the average juror tends to believe the employee.
- The overwhelming majority of jurors who vote for the employee are, in fact, finding against the employer rather than for the employee.

Our University values mandate this training

- **Accountability:** Integrity, transparency, excellence and the highest standards govern everything we do.
- **Collaboration:** We seek partnerships both within and beyond the University to enhance our actions and our outcomes.
- **Diversity and Inclusion:** Everyone is respected, included and given the opportunity to excel.
- **Innovation:** We consistently seek a better way, and we embrace challenges.
- **Service:** Our purpose is to benefit our students and society through knowledge and effort.
- **Student Success:** We provide every student with the opportunity to excel.

What this training *will* cover

- Concepts to prevent claims of discrimination
- The basics of key employment protection laws
- Employment law scenarios for illustrative purposes
- Aspects of fair management
- Proper documentation

What this training *won't* cover

- University human resources processes
- In-depth coverage of discrimination, harassment and retaliation principles
- Performance management
- The intricacies of leave management

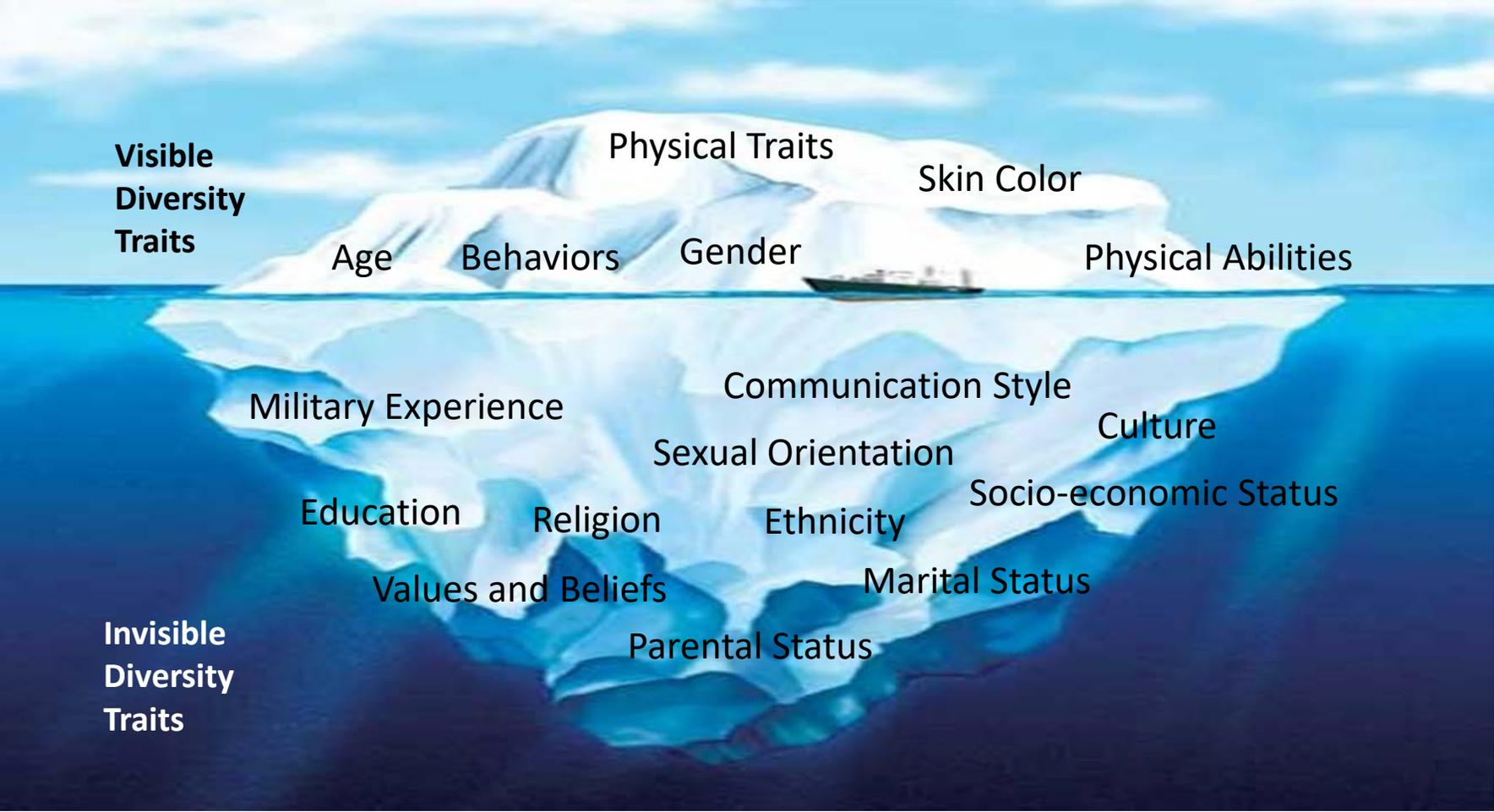


Key Concept
Respect Diversity and Practice Inclusion

Diversity and Inclusion: Everyone is respected, included and given the opportunity to excel.

Diversity

- Diversity refers to human qualities that are different from our own or those of the groups we belong.
- In the workplace it means:
 - Creating a workplace that respects and includes differences;
 - Recognizing the unique contributions that individuals with many types of differences can make; and
 - Creating a work environment that maximizes the potential of all employees.



As a manager, you must...

- Accept that you will have to manage a diverse workforce
- Not make assumptions based on visible diversity traits
- Believe that appreciating diversity is the right thing to do
- Practice fairness and empathy
- Evaluate yourself and your beliefs
- Understand the business case for diversity

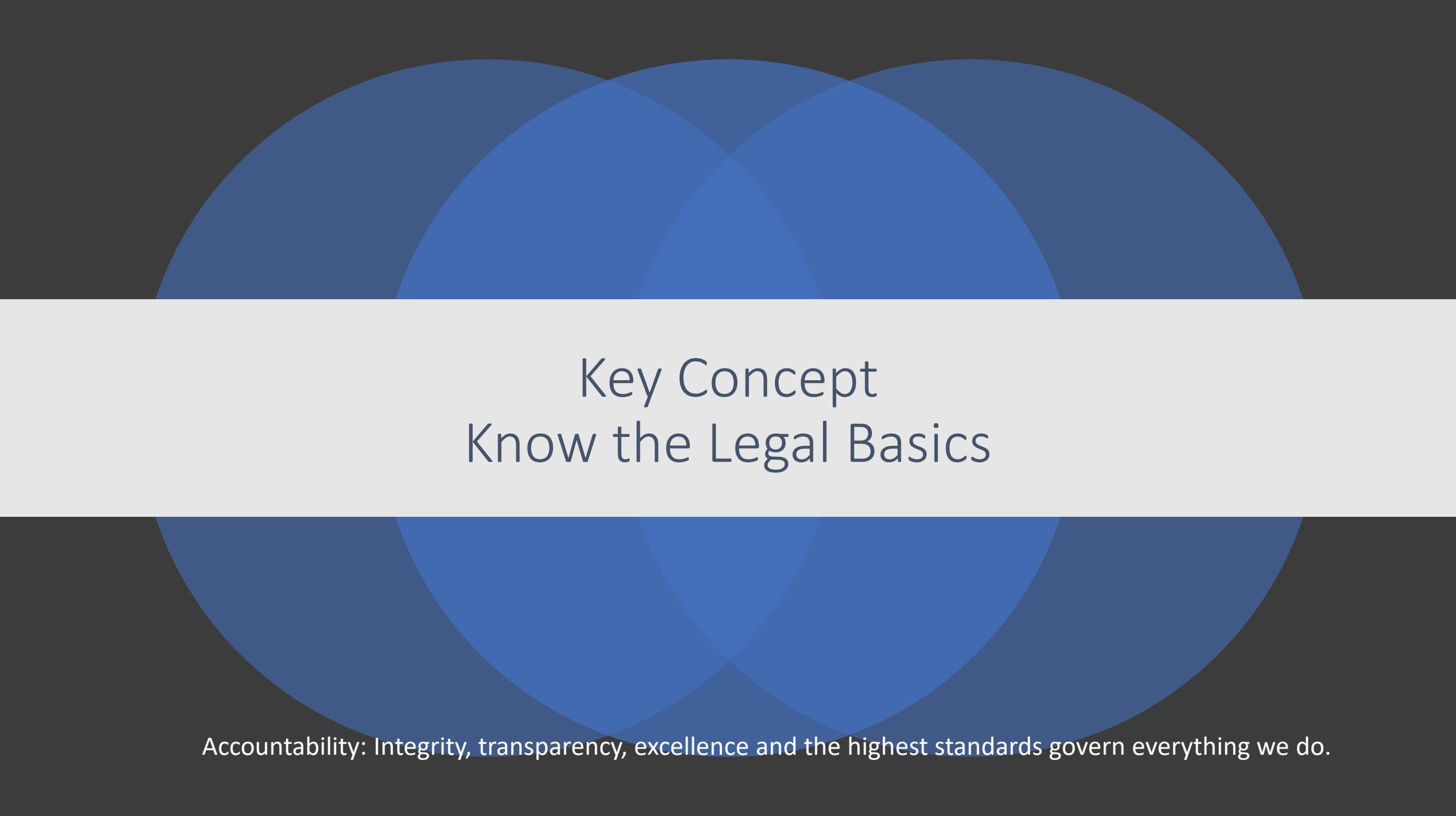
Failure to appreciate and respect diversity...

Leads to stereotypes.

When we judge people and treat them differently based on stereotypes, we are engaging in discrimination.

Discrimination is illegal and interferes with the establishment of working relationships.

Discrimination leads to lawsuits!



Key Concept

Know the Legal Basics

Accountability: Integrity, transparency, excellence and the highest standards govern everything we do.

Employees have a lot of protection!

- Title VII (race, color, religion, national origin, sex)
- ADEA
- ADA
- FMLA
- Equal Pay Act
- PDA
- FLSA
- GINA
- FCRA
- USERRA
- ERISA
- COBRA
- OSHA
- Equal Protection
- First Amendment
- Public Protection and Political Freedom Act
- Due process
- Workers' compensation

And the list goes on and on and on.....

Employee protection covers all aspects of the employment relationship including...

- Recruitment
- Interviewing
- Hiring
- Promotion
- Demotion
- Transfer
- Compensation
- Training
- Discipline
- Benefit Administration
- Termination

Tip 1: Don't discriminate

- Don't treat people differently because of their individual characteristics.
 - Your treatment of people should be based not on WHO the person is, but rather WHAT they have or have not done.
 - People who engage in the same misconduct should be treated the same regardless of WHO they are.

Karen complains to her manager that she's been excluded from the rotation schedule for driving the supply truck. Ed, her manager, is surprised and says that he figured she wouldn't want to be included. "Why not?" Karen asks. "Well, it's a big truck and I thought it might be too much for you to handle. I mean, driving a big truck isn't exactly a job for a woman, is it?" asks Ed.





Tim has been late three times in the last month. After the third time, his manager Kim places him on a performance improvement plan. A couple of months later Sharon is tardy for work. Kim talks to her after the second tardy and tells her she's got to shape up. Sharon continues to be tardy and after the fifth tardy, Kim calls Sharon to her office and asks her what is going on. Sharon tells her she's just having some personal issues but she's going to do better. Kim tells her, "Okay, because I really didn't want to have to write you up."

Tip 2: Don't harass or allow harassment

- Don't engage in or allow your employees to engage in conduct that is so offensive a reasonable person would consider the conduct intimidating, hostile or abusive.
- You have a duty to reasonably prevent and the University has a duty to correct.
- Remember: It's about what the employee perceives, not what you think! Intent is not required.



Employee is one of 3 black people in her 10 person department. Her manager, Jane, is white. On February 1, Jane comes to work and announces that it's Black History Month and asks that the black employees lead the group in singing Lift Every Voice and Sing, the Black National Anthem. Throughout the month, Jane requests that each of the black employees provide the department with a weekly black history fact. Employee goes to human resources and reports that she is made uncomfortable by Jane's actions.

Sam is fifty-two years old and has been working for the University for thirty-two years. After a back injury resulting in permanent restrictions, a special chair is purchased for Sam, and he is allowed frequent breaks to rest his back. Jealous of these accommodations, three of Sam's co-workers begin to give him a hard time. They hide his chair when he is on break, steal and eat his lunch from the breakroom refrigerator, and refer to him as a "crippled," "washed-up," and a "broken-down old man."



Tip 3: Don't retaliate

- Don't take any adverse action against the employee who:
 - Complains about, reports, or opposes a practice they believe to be unlawful;
 - Expresses that they feel they were treated illegally;
 - Participates in any investigation as a witness; or
 - Requests a reasonable accommodation based on religion or disability.

Adverse action is negative action and is interpreted broadly.

Retaliation is the most frequently cited form of discrimination and the easiest to win!



Karen works in an office with her manager John. She often hears John making racially derogatory comments when speaking with his friends on the phone. Karen goes to OIE to report John's comments and how she thinks they are inappropriate. John hears from one of Karen's co-workers that Karen went to OIE. John is outraged. He's never made the comments directly to anyone in the office, and his conversations with his friends are none of her business. He reduces her hours from full-time to part-time.



Dave works in financial planning and supervises 6 employees. One of his employees, Ashley, has requested to meet with him to discuss a potential professional training session that she knows another employee is attending. Dave declines Ashley's meeting request and states:

"There's no need for us to meet. I don't think you need any professional development."

Ashley tries to address the issue a couple of more times and Dave refuses to engage. Ashley filed an OIE complaint against Dave last year.

Sam offers Ann a job in his department with a start date two weeks out. Ann accepts and her acceptance is announced at a division-wide meeting a few days later. After the division-wide meeting, someone informs the VP that a friend of his is the president of the company where Ann just worked. He states that Ann filed a sexual harassment lawsuit against his friend and has a history of filing EEOC complaints. The VP tells Sam that he does not want Ann hired and instructs the HR Director to rescind the job offer.



Tip 4: If it's medical, call HR!

- The Americans with Disabilities Act and the Family and Medical Leave Act provide protection for employees who have disabilities or serious health conditions. In some instances, this protection extends to the family of an employee.
 - Immediately notify HR when an employee has given you enough information for you to think they may be asking for time off or that they may have a medical condition which may require time off.
 - Immediately notify HR when you believe an applicant or employee may need an accommodation because of a medical condition or physical/mental impairment.
 - “I hurt my back and I don’t think I can do any lifting for a couple days.”; “I can’t stand for more than 10 minutes without pain. Can you get me a stool?”; “I’m getting migraines from the bright lights in the office. Can I work in the conference room where it’s less bright for a while?”

Peter is having a hard time completing and submitting newly required reports. During a meeting to discuss his performance, Peter reveals that he has an anxiety disorder and is taking some medication and that it's hard for him to focus.





On Monday, Ken calls in sick and says he is going to the doctor because he's not feeling well. He calls back on Tuesday and says his doctor has taken him off work for the rest of the week.

"I can't come to work today
I'm in bed with some kind of
bug."

University Policy HR5028

“When the leave is expected to exceed three work days, the employee, manager, or department head are also responsible for notifying the Human Resources Benefits Administration of the leave even if the employee has sufficient sick and/or annual leave to cover the absence.”



Employee's mom has end-stage congestive heart failure and is receiving hospice care. Employee lives with her mother and is the primary caregiver for her mom (e.g., preparing her meals; administering her mom's insulin shots and medicine; operating a pump to remove fluids from her mom's heart). Mom wins a 6-day "make a wish" trip to Las Vegas because she's terminally ill. Employee requests leave to go on the trip with her mom.



Karen suffers from diverticulitis. Typically, she calls in one or two days a month needing a day or two off work because of flare ups. How do you handle this?

Tip 5: Take complaints seriously

- Employees are vague in reality but are very specific in the courtroom. What may seem like just a gripe or grumblings in the workplace can turn into a formal complaint with specific facts when presented to the EEOC or a court.
- Stay tapped into the workplace grapevine to be aware of negative or unfair grumblings or rumors.
- Take complaints seriously – no matter how trivial it may seem. Don't make quick judgments.
- Don't suggest that complainants ignore behavior or handle it themselves.

- Your knowledge is the University's knowledge.
- Err on the side of caution and CONTACT HR.



**"I'm *not* being a tattle-tale! —
I'm being a reliable source!"**

Tip 6: When in doubt, seek advice

Wisdom is knowing you don't
know everything

- Unknown



Key Concept

Know and Use Your Resources

Collaboration: We seek partnerships both within and beyond the University to enhance our actions and our outcomes.

University Policies

- Written policies help ensure managers are responding to similar situations in the same way.
- The failure to apply a written policy can be evidence of discrimination.

“...we have also observed that deviation from company policy can be circumstantial evidence of discrimination, especially where the rules were bent or broken to give a non-minority applicant an advantage.”

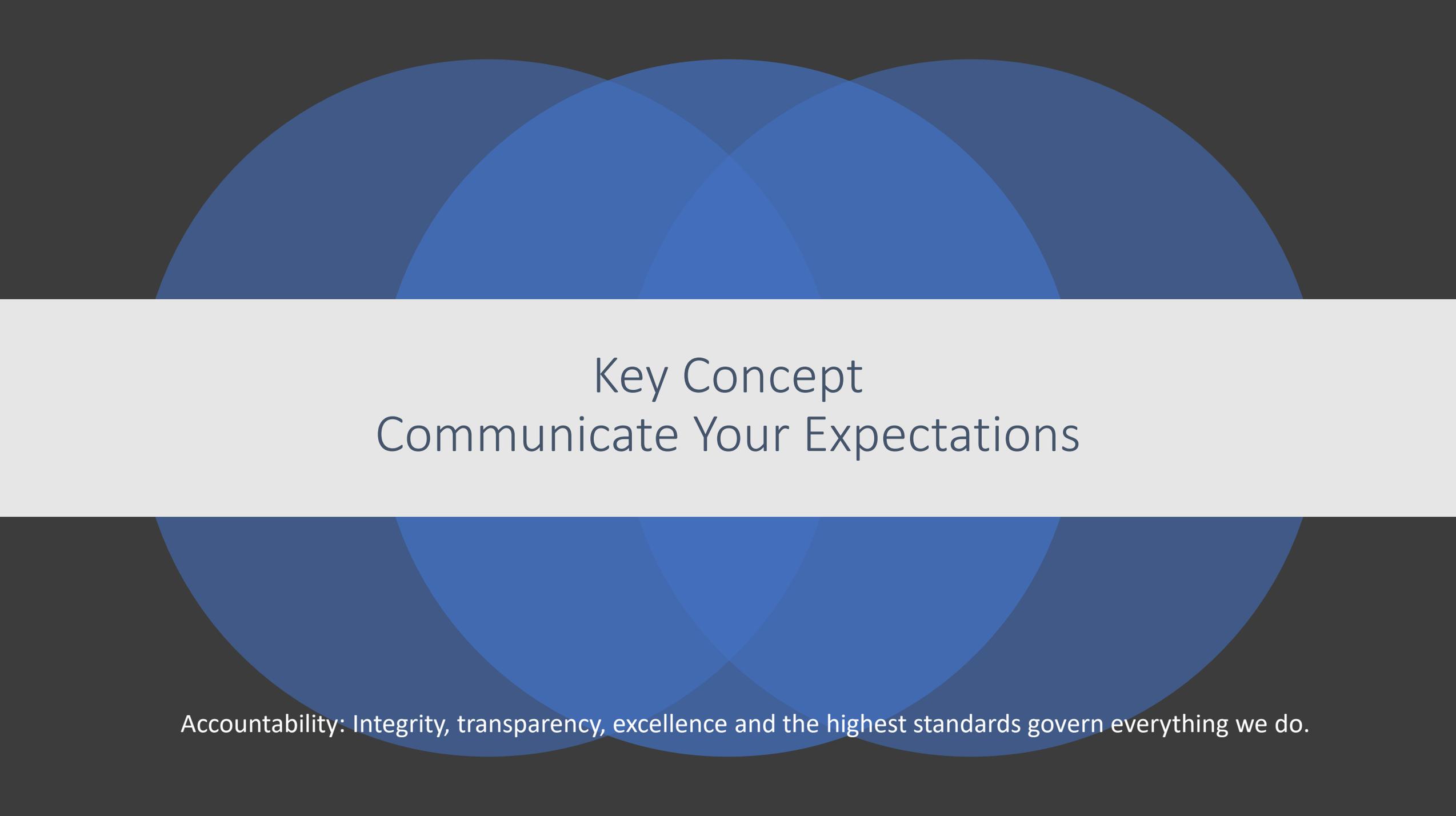
“[E]vidence that BFI may have deviated from its normal management procedures when it summarily terminated Dartt could support a reasonable inference that BFI had terminated Dartt because of his perceived handicap.”

University Departments

- Human Resources
- Provost's Office
- Office for Institutional Equity
- Student Conduct
- Faculty Ombudsperson

University Training: Learning Curve

- Effective Mentoring in the Workplace
- Communication, Civility and Ethics in the Workplace
- Discrimination and Harassment Prevention for Higher Education
- Hiring Right
- Performance Management
- Professionalism
- Title VI Training
- Title IX Training



Key Concept Communicate Your Expectations

Accountability: Integrity, transparency, excellence and the highest standards govern everything we do.

Expectations are important for defending lawsuits

- To support a discrimination claim, an employee generally must show he or she is meeting the University's legitimate business expectations.
- To win a case, the University may have to show:
 - That expectations were communicated to the employee;
 - That we gave the employee an opportunity to meet the expectations; and
 - The employee wasn't meeting the expectations given.

Employees can only meet expectations when they know what's expected.

An employee should never say:

- “I don't even know what my job responsibilities are!”
- “No one ever trained me!”
- “This is the first feedback I've received. This is completely news to me!”
- “I tried to talk to my manager, but he was never available!”

An employee terminated for an issue they were never advised of or counseled about is more likely to perceive that the termination is unfair and possibly unlawful.

Tell them **WHAT**
you expect

Tell them **WHY**
you expect it

“IUPUI never warned Peirick that her foul language, poor driving, inattentiveness to trailing vehicles, and expression of frustration during a scheduling conflict could lead to dismissal. ... IUPUI’s delay in addressing its alleged concerns undermines its claim that Peirick’s behavior was unsafe or severe. ... In sum, we find IUPUI’s post hoc explanations, delay, exaggeration, and unusual conduct more than enough to create a question of fact concerning the legitimacy of its explanations for Peirick’s termination.”

You set the expectation

- It is a lot easier to discipline an employee if you've made your expectations clear from the beginning.
 - The beginning starts with the job description. Make sure to review it regularly.
- Do your employees have an understanding of what their scope of work is and what you will and won't tolerate? Unclear expectations are a top source of frustration. Frustration leads to litigious employees.
- Do your employees know how they are progressing toward established goals? Expectations allow for constructive criticism and benchmarking.

Expectations should be reasonable

- Remember, the business expectations have to be legitimate which means they must be reasonable.

“...it is permissible for a jury to view the imposition of an unattainable goal as evidence of pretext because a jury may reasonably view the goal or production quota as an effort to set up an employee for failure.”



Key Concept Be Consistent

Accountability: Integrity, transparency, excellence and the highest standards govern everything we do.

Inconsistency breeds discrimination

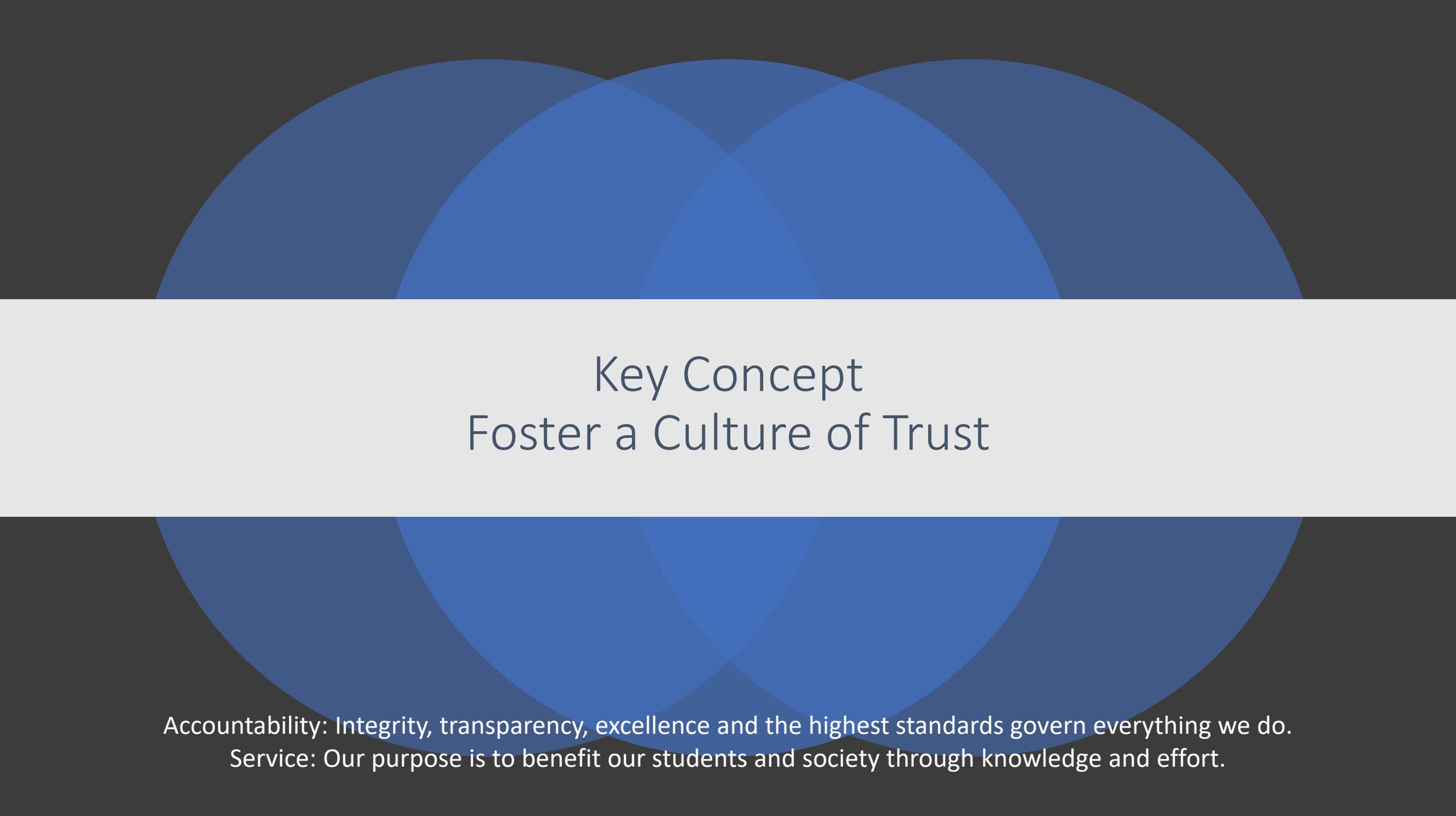
- A big part of being perceived as a fair employer is consistent application of the rules.
 - Inconsistency impacts employee morale.
 - Inconsistency leads to higher turnover rates.
 - Inconsistency creates contention among co-workers.

The alleged unfair application of the rules is the basis of almost every employment lawsuit.

When employees are treated differently from co-workers, they try to figure out why. Frequently, this leads the employee to conclude that they were treated differently because of their protected status (race, religion, sex, etc.). In other words, they conclude that they were discriminated against.

I'm not saying you must treat all employees exactly the same all the time but....

- If there is a policy that clearly dictates a course of action, follow it.
- If you want to deviate from the policy, you must consult with HR or the Provost's Office for an evaluation of the circumstances.
- Any deviation from established rules must be the product of legitimate and justifiable exceptions to the established rule.
 - You will have to articulate why you want to deviate from the rule, and it has to make sense! It can't just be because you want to.



Key Concept

Foster a Culture of Trust

Accountability: Integrity, transparency, excellence and the highest standards govern everything we do.
Service: Our purpose is to benefit our students and society through knowledge and effort.

- A study of 22,719 leaders showed that those who ranked at the bottom 10% in their ability to give honest feedback to direct reports ranked in the 25th percentile in employee engagement.
- Whereas, those who ranked in the top 10% for giving honest feedback had subordinates who ranked at the 77th percentile in engagement.

Communicate and Be Responsive

- Foster a culture where your employees feel comfortable coming to you with issues or concerns.
- Don't adopt a "don't ask, don't tell" policy.
 - Take complaints seriously and follow up.
 - Address work conflicts.
- Listen effectively.
- Respond to the needs of your employees – articulated needs and unarticulated needs.

Do What You Say You're Going to Do

- Don't make promises you can't keep (aka don't write checks you can't cash).
 - Telling employees you will do something that you can't make happen affects employee morale, which leads to employees distrusting your actions and statements. Distrust leads to low morale, turnover, and employees who don't have a sense of commitment to the organization.
 - And if your employees don't trust you, they are more likely to sue you!
- If you say you're going to do something and you don't, you will be called on it.
 - Be careful what you say and write. If you state in a performance evaluation that an employee is going to receive training in a certain area, you better believe that failure to follow through will be used as evidence against you.

Honesty is the best gift you can give

- Performance management without honesty is just writing a check!
- Failure to give honest performance feedback can result in significant legal liability if you decide to take action against the poorly performing employee.
- Failure to give honest performance feedback is unfair to the employee.
 - It gives employees a false sense of achievement.
 - It prevents employees from developing.

“A jury could also find that defendant made the termination decision because of plaintiff's arthritic knees. Defendant argues it terminated plaintiff because clients or their families had complained about plaintiff's care. Although this certainly would be a legitimate reason for terminating plaintiff, the evidence does not conclusively establish this allegation. First, no one ever told plaintiff about any of the alleged complaints or warned plaintiff about her job performance. ... Of course, nothing in the law required defendant to give plaintiff a warning or tell plaintiff about the alleged client complaints; not doing so, however, supports a reasonable inference the complaints did not trigger plaintiff's termination.”

“She points out that none of her evaluations mention her lack of flexibility, attitude problems, or the March 2004 incident. Her positive evaluations, she contends, indicate that she satisfied Popular Finance’s performance requirements. Medina further highlights that she received no warning, admonishment, or punishment for any of her alleged performance issues. A reasonable jury, relying upon this evidence, could question the veracity of Popular Finance’s performance-related justifications for termination Medina. The court agrees that Medina’s positive evaluations, which omit any mention of her performance issues, suggest pretext.”

Maintain privacy

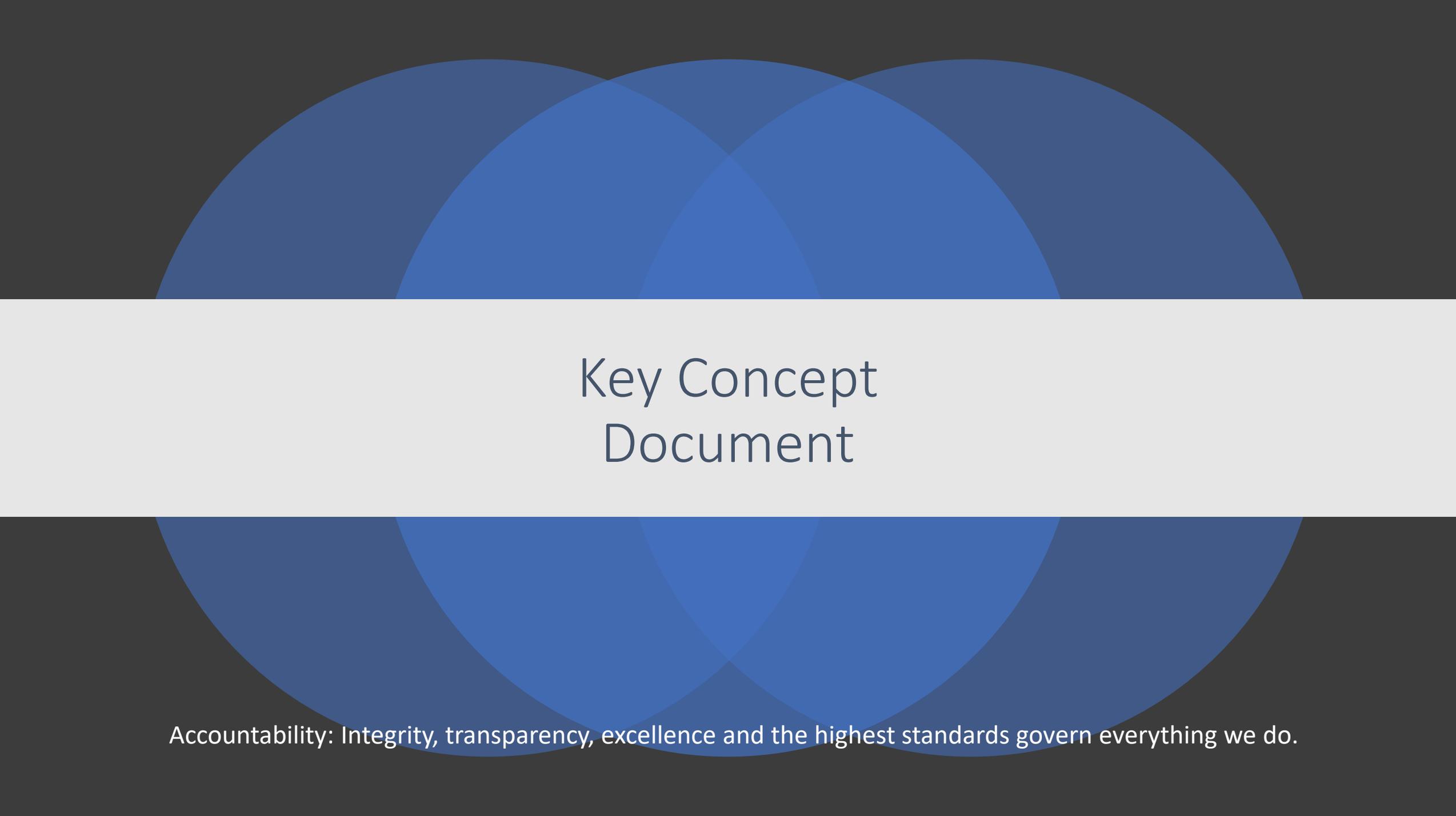
- Never tell one employee when another employee is having problems at work.
- Never disclose an employee's performance evaluation to those outside your management chain.
- When involved with a disciplinary matter, consider all aspects of a matter confidential until a final decision is rendered.
 - Once a final determination has been reached, HR or the Provost's Office can provide guidance on what can be shared and with whom.
- All health or disability related medical information obtained through employment-related examinations or inquiries is protected and privacy must be protected.

“Read liberally, Plaintiff’s allegations that he informed Defendant about his illness, provided a doctor’s note for missing work, and that Defendant disclosed this information to others, allows the Court to draw a reasonable inference that Defendant may be liable for misconduct in violation of ADA”

Maintain your objectivity

- Too much subjectivity in decision-making can be viewed as a basis to make discriminatory decisions.
- Don't react to employees' claims! Instead respond to the situation!
- "Attitude", "initiative," and "reliability" are subjective and should be supported by objective facts.
 - Focus on how the employee performs and how he conducts himself while performing.
 - "Attitude" becomes "prompt and cooperative when working with coworkers."
 - "Reliability" becomes "performed tasks timely, thoroughly and with minimal instruction and coaching."
 - "Initiative" becomes "took on additional tasks to help the team succeed."

“The district court characterized the promotion process with respect to salaried jobs as ‘highly subjective and loosely structured.’ ...no significant safeguards exist to ensure that the recommendations are focused on the relevant issues in promotion. Foremen asked to make recommendations have no objective way of rating the employees whom they are evaluating. Moreover, they are never given written guidelines delineating the criteria for which they are supposed to be looking or describing the jobs for which they are making recommendations. ... The process described, while perhaps intended only to recognize merit, is highly susceptible to abuse. While some subjectivity is inevitable in filling jobs of an executive character, the total lack of objective standards at Broadview could only reinforce the prejudices, unconscious or not, which Congress in Title VII sought to eradicate as a basis for employment.”



Key Concept Document

Accountability: Integrity, transparency, excellence and the highest standards govern everything we do.

IF IT IS NOT DOCUMENTED,
IT PROBABLY DIDN'T HAPPEN!

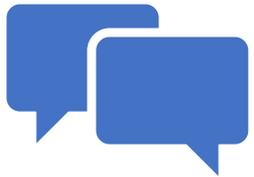


Why is Documentation Important?

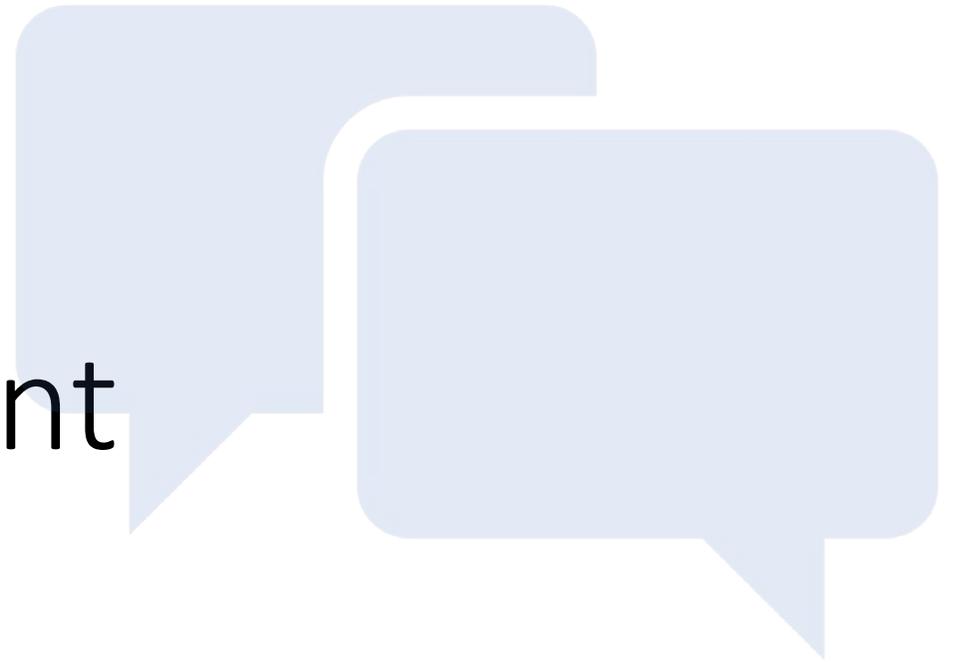
- It establishes a record of employment actions taken and the reasons for the actions. It serves as evidence of the business reasons for actions taken.
- It informs employees of what is expected of them and the consequences if they don't meet expectations.
- From a performance management standpoint, it serves as a written record to guide both the employer's and the employee's future behavior. It gives the employee the opportunity to improve.
- It brings about fair and equitable treatment. No one wants to be blindsided or treated differently than other employees.

What to Document

- Notes from coaching and counseling sessions with employees.
- Written comments regarding performance or conduct issues, training needs, accomplishments.
- Disciplinary actions, such as warning documents with specific examples and consequences.
- Follow-up documentation of important meetings that could turn into bigger issues.



Let's talk about
how to document



Document Thoroughly

Documentation provides a record.

- It should be thorough and answer the who, what, when and where.
- Vague documentation doesn't count and isn't helpful.
- Document only the facts, not subjective judgments or conclusions.

Ask yourself, if someone outside the organization read the documentation, would they understand the situation and the impact it had on other employees or the University?

Cranky Crystal

I talked to Crystal about her attitude problem and told her if it doesn't get better she will be written up.

or

Jan and Cheryl have reported that Crystal has yelled at them and refused to answer questions. Don has also reported that when he tries to discuss issues with Crystal she rolls her eyes and says she doesn't have time to talk and can he make it quick. I have discussed previously with Crystal on Sept. 13, 2014, that her verbal and nonverbal communication is not in line with organizational mission and values and that all employees should be treated with respect. Her actions have made others hesitant to approach her, which leads to a fractured working environment. She has been counseled that further issues may result in written discipline.

Trashy Tracy

Tracy, your assigned areas were not cleaned properly, and I've talked to you about this. Failure to properly clean your areas could result in discipline or termination of your employment.

or

Tracy, this is your final warning for failing to adequately perform your cleaning responsibilities at Building 1 and Building 2. I received a third complaint from Building 1 that the classroom floors were not mopped. I examined the floors myself and found that the floors in classrooms 5 and 8 had not been thoroughly cleaned. This is your final warning that if you fail to properly clean your building again, your employment will be terminated.

Document Professionally

- Remember, a primary purpose of documenting is to provide evidence if a lawsuit ensues.
- Document as though everything you write will one day appear in front of a judge and jury.
- Use appropriate language, write clearly and succinctly, and be thorough.
- Make certain that what you write makes sense without having to explain things that aren't written.

Tipsy Tonda

Tonda **arrived at work late** with reports by others of being drunk. She hit a car and when **confronted** by me, after the incident, became **defensive and acted immature showing that she had something to hide** and to get others to "back off." She denied she was drunk, but admitted she had been drinking before midnight, which is when she stated her last drink occurred.

Testy Temeka

You have been in my department now for more than five years and were **assigned here involuntarily and over my objections**. Since you came you have **consistently complained** that you are not treated fairly. However, **you don't follow the rules**.

Today you came in ten minutes late **again**. I simply will not tolerate such disregard for my authority. I am your manager and failure to follow my directives is **insubordination**. Consider this a **written warning**.

Document In the Moment

- When something noteworthy happens, document it as soon as you have the opportunity.
- Don't wait until you've decided whether to issue formal discipline to document the underlying conduct. Even if you don't plan on issuing discipline for isolated conduct, document it – you never know when isolated conduct will repeat itself and become a pattern of behavior.
- Contemporaneous documentation can be powerful evidence, as it is not only more accurate than testimony regarding the incident months and years later, but it reflects the true rationale of the decision-maker when the decision was made.

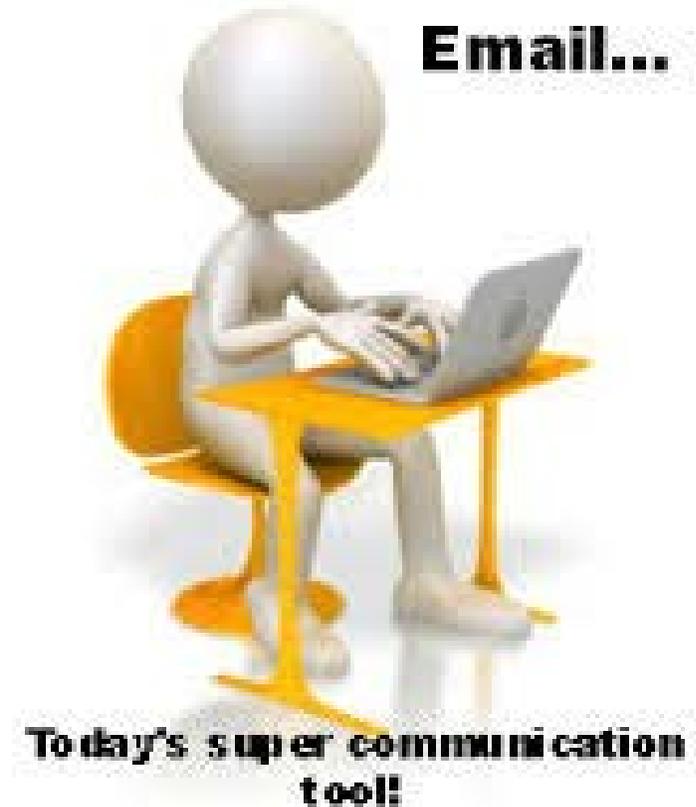
“On ... the date of Santiago-Ramos' dismissal, Rivera did not tell her why her employment was being terminated. A memorandum dated that same day identifies several reasons for the decision. However, Mejias, who typed that memorandum from Rivera's dictation, stated that it was prepared several weeks subsequent to the termination, after it was clear that Santiago-Ramos was initiating legal action against Centennial. A jury could rely upon Mejias' statement to conclude that Centennial's stated reasons for firing Santiago-Ramos were merely pretextual post hoc justifications because they were only provided in anticipation of litigation.”

Document Diligently

- Don't wait, hoping issues will improve. Isolated incidents can quickly turn into a pattern of behavior or conduct.
- If you aren't certain whether there needs to be a record, document it.
- Documenting is time intensive and tedious, but you must be persistent – what may seem like a minor issue can easily have the potential to turn into litigation.

“Furthermore, Plaintiff points out that Defendant’s documentation regarding her demotion is potentially suspect. All of the negative performance memoranda regarding Plaintiff was created on or after May 13, 2010, a mere eight days prior to the adverse employment action. The lack of documentation at the time of the supposed incidents of misconduct indicates, at the very least, that Defendant failed to follow its own misconduct procedures. While the timing of such documentation does not lead to the automatic conclusion that Plaintiff’s demotion was because of her age, it does support an inference that Defendant might be covering up a discriminatory purpose.”

Remember: Email is an Effective Form of Keeping a Record



Document Correctly

- Make sure you follow all University procedures without exception.
- Often times if procedures are not followed, the documentation can be disregarded for evidentiary purposes.

Discipline reasons now are discipline reasons later

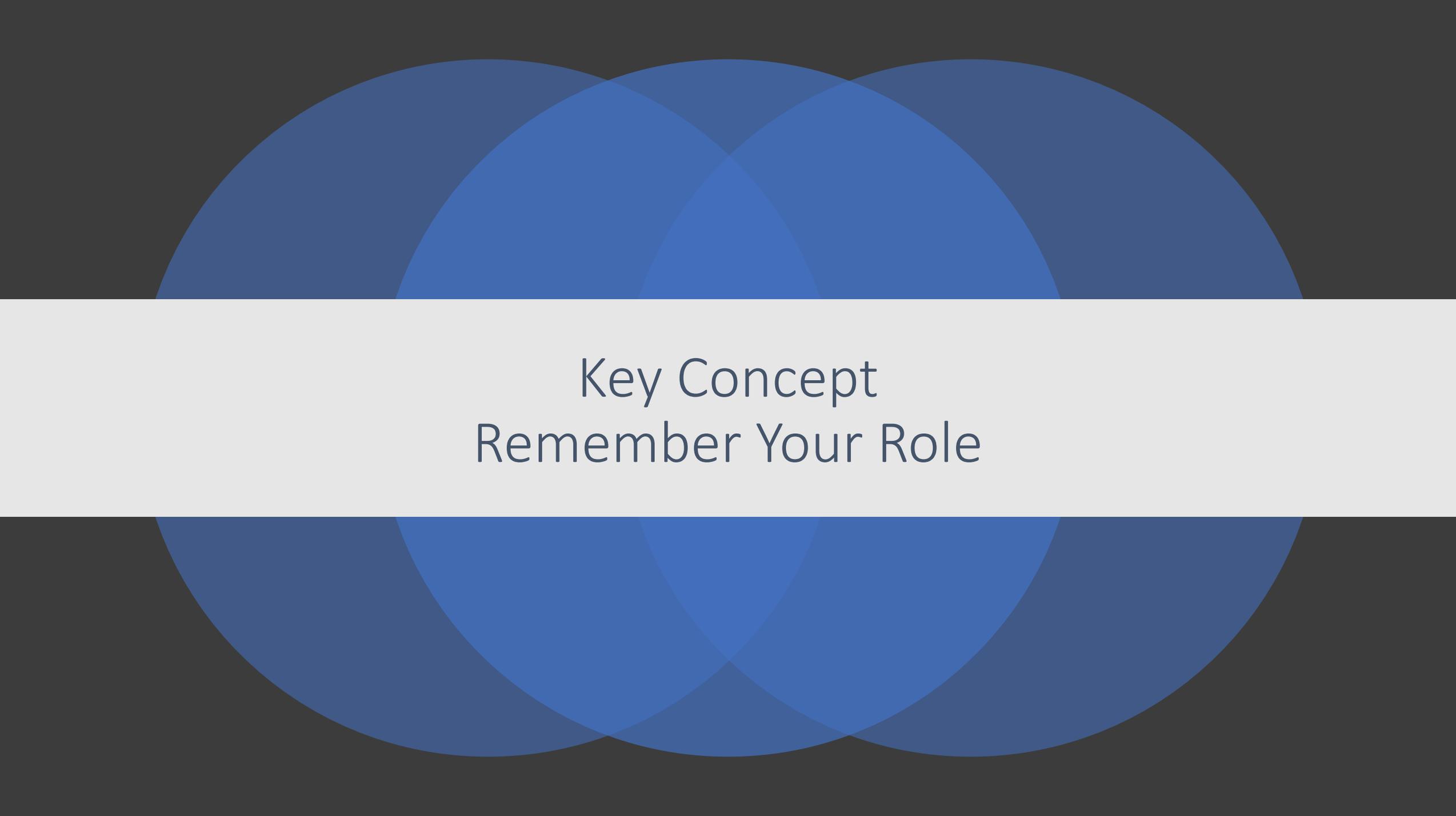
Your reasons for discipline must be well thought out. What you document now, will be what you are stuck with later!

The basis for discharge must be one which is known to the employer at the time of termination.

“Thermo King did not initially provide Velez with any reason for firing him. One month later, Soto told the ADU and the EEOC that Velez had been fired for violating the company's policy on receiving gifts from suppliers. It was not until over a year later that Thermo King, responding to this lawsuit, first said that Velez had been fired for stealing and selling company property. The fact that the employer gave different reasons at different times for its action surely supports a finding that the reason it ultimately settled on was fabricated.”

When to Consult HR on Documentation

- Performance Improvement Plans and written warnings
- Accommodations – religious and medical
- Significant changes to job duties
- Demotions and promotions
- Work/life balance matters, such as telecommuting
- Terminations



Key Concept
Remember Your Role

The Best Interests of the University

- When you are in a supervisory role you must focus on acting in the best interests of the University unless it violates law or regulation.
- Acting in the best interests of the University may mean that you are required to disclose information that an employee has asked you to keep secret.
 - For example, an employee tells you that they are having thoughts of self-harm. You may have to evaluate whether to maintain confidentiality or report the information. HR can provide guidance on the best course of action.

Termination/discipline decisions are a University decision, not an individual decision

- Comments like “If this were my decision, I wouldn’t discipline you” or “HR made me do it” can help an employee win a lawsuit.
 - It implies that the decision was arbitrary or malicious.
 - Compliments make it seem as if there is really no reason for the action.
- Decisions are made not based on what you want but rather what University policies and the best interests of the University dictate.
- All involved in the performance and conduct management of the employee should be involved in or at least notified of the action, and even if they don’t agree, should understand and then acknowledge the reasonableness of the ultimate decision made.

“Johnson presented evidence that two of his supervisors said they did not think he deserved to be fired and that he was doing a good job; although his employer said his use of profanity was a reason, two supervisors said he used no more profanity than other employees; ... one supervisor who overheard Johnson make hundreds of calls never heard the statement; and on the charge he was dishonest about a lost T.V., one supervisor said that was not a reason Johnson was fired. Johnson also offered evidence that his supervisors were inconsistent in stating the reasons he was fired and whether the firing decision was made by all of them or just one. ... We conclude that Johnson has produced sufficient evidence of conscious wrongdoing by Express and that a jury could find a discriminatory motive behind his termination.”

Adhere to our University values

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