



## CALAFCO U Webinar

# **Brave New World of HR:** **Hiring Headaches, Trends and** **Opportunities in a Post-Pandemic** **World**

June 20, 2022





# Panelists

## ❖ **CAROLYN EMERY**

*Executive Officer - Orange County Local Agency Formation Commission (OC LAFCO)*

## ❖ **ALISON ALPERT**

*Partner in the Labor & Employment practice group at Best Best & Krieger LLP*

## ❖ **GARY PHILLIPS**

*Executive Vice President/Owner, Bob Murray & Associates*





# “The Hiring Headache”

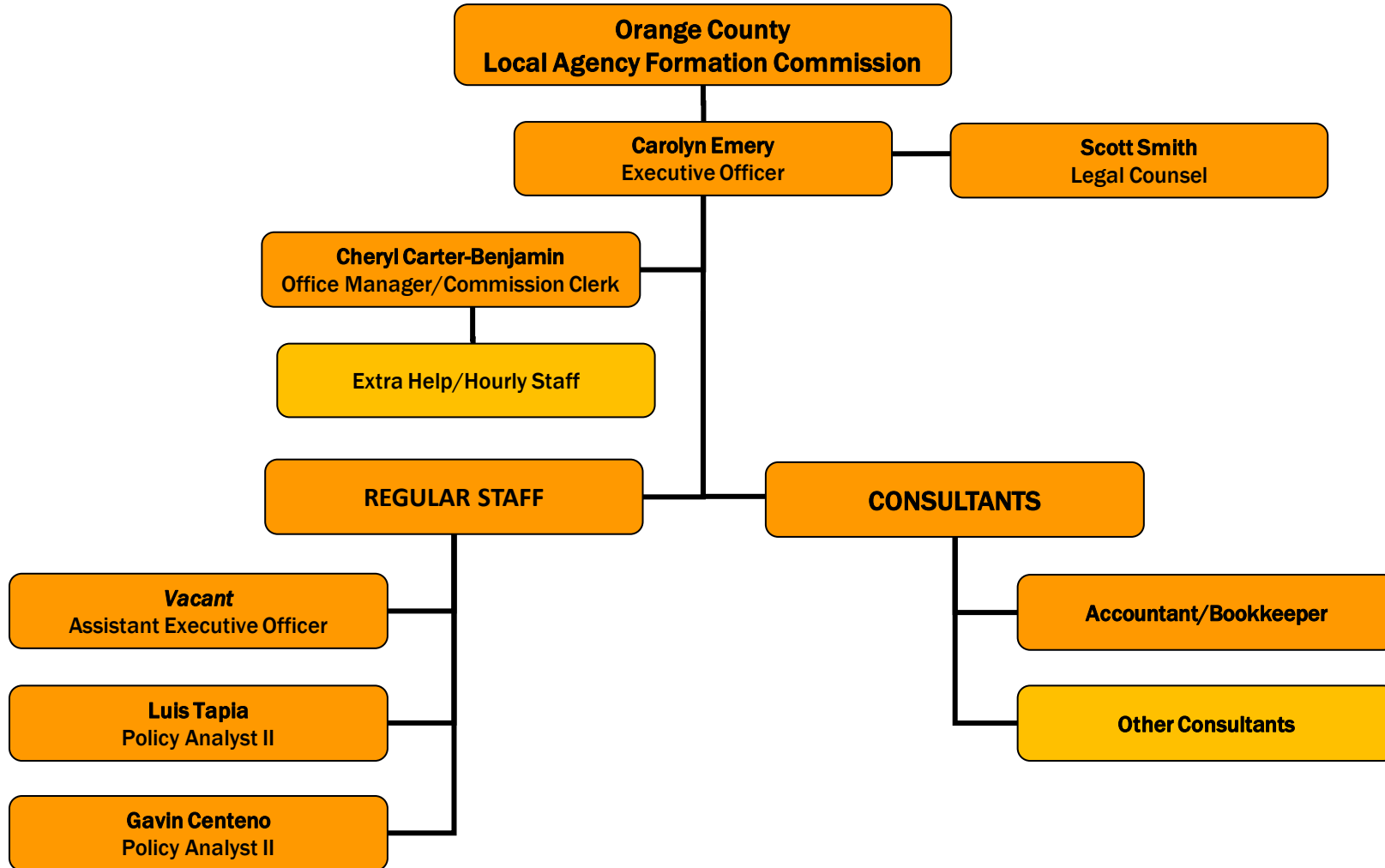
## CASE STUDY: Executive Recruitment

**Carolyn Emery, *Executive Officer***





# Organizational Chart





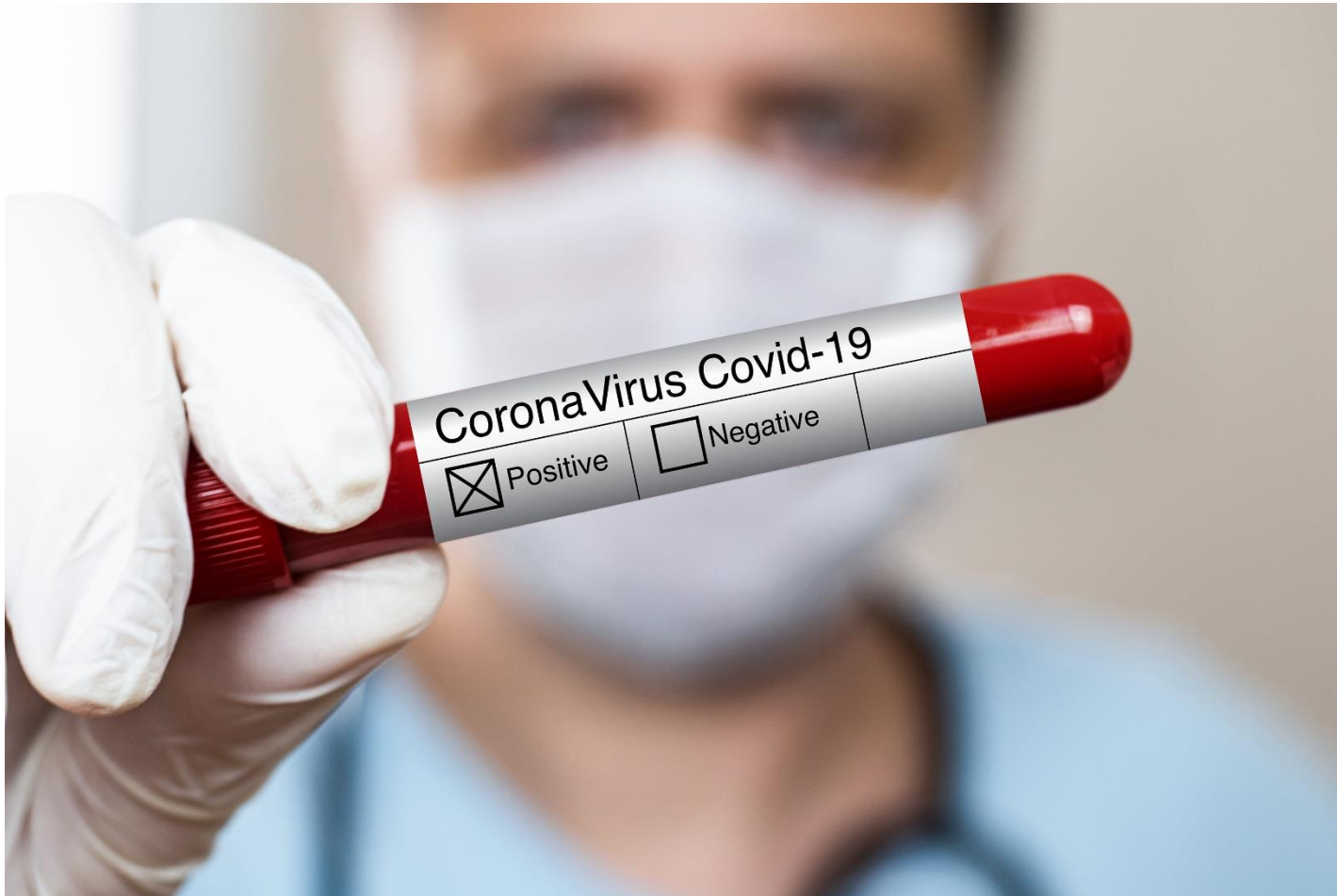
# Staffing Trend

- ❖ Static tenure 2016-2020
- ❖ Employees tenure ranged from 4 to 22 years
- ❖ And then in Spring 2020.....





# Pandemic







# Staff Impact

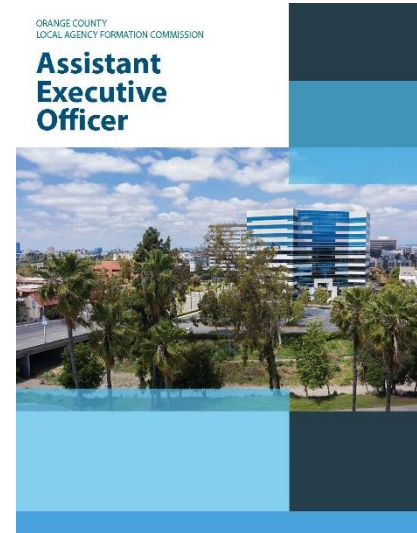
- ❖ Assistant Executive Officer Vacancy (May 2020)
- ❖ Work Plan Adjustment
- ❖ Disruption of team/work environment





# Recruitment

- ❖ Hired CPS HR (August 2020)
- ❖ Over 100 applicants
- ❖ Prescreening and interview of final candidates
- ❖ Candidate hired (March 2021)







# What Went Well?

- ❖ Use of executive recruiting firm
- ❖ Use of private company for background check process
- ❖ Timing of Recruitment
- ❖ Interview Panel (SD LAFCO, City, Special District, and County)





# What Did Not Go Well?

- ❖ Partial recruitment
  - ◆ Develop recruitment brochure
  - ◆ Identify and contact potential applicants
  - ◆ Resume reviews and screen interviews
  
- ❖ Zoom-only interviews
  
- ❖ Reference checks
  
- ❖ Onboarding





# Key Lessons

- ❖ Important to keep process moving
- ❖ After hire, year one is a trial period
- ❖ Know the relevant HR laws or hire an expert
- ❖ There are no guarantees





# QUESTIONS?

Carolyn Emery  
*Executive Officer*



**"Hire character. Train skill."**

**— Peter Schutz**





# Legalities

## Things to Know

**Alison Alpert, *Best Best & Krieger Attorneys at Law***





# Recruitment Process

- ❖ Advertisement/Brochure
- ❖ Review/Update Job Description
- ❖ Identify the Ideal Candidate
- ❖ Collect Resumes
- ❖ Initial Review-Minimum Qualifications
- ❖ Interviews
- ❖ Selection







# Recruiting Candidates

- ❖ Sourcing and recruiting: legal issues
  - ◆ Establish nondiscriminatory criteria for job descriptions
  - ◆ Implement nondiscriminatory strategies for hiring
  - ◆ Make sure there is no disparate impact
  
- ❖ Materials:
  - ◆ Employment advertisements
  - ◆ Job descriptions
  - ◆ Employment applications





# Applicable Laws

- ❖ Title VII – applies to hiring and terms and conditions of employment
  
- ❖ Fair Employment and Housing Act (FEHA) – prohibits hiring practices that discriminate against applicants based on protected categories:
  - ◆ Race or Color
  - ◆ Ancestry or national origin (including language use restrictions).
  - ◆ Religion or creed.
  - ◆ Age (over 40).
  - ◆ Mental or physical disabilities.
  - ◆ Sex or gender (including pregnancy, childbirth, breastfeeding or related medical conditions).
  - ◆ Sexual orientation.
  - ◆ Gender identity or gender expression.
  - ◆ Medical condition.
  - ◆ Genetic information.
  - ◆ Marital status.
  - ◆ Military and veteran status.





# Candidate Selection

## ❖ Interviewing

- ◆ Only elicit information concerning the candidate's qualifications about their ability to perform essential job duties

## ❖ Salary History

- ◆ Labor Code section 432.3 prohibits employers from asking job applicants about their salary history

## ❖ Criminal Records

- ◆ Must wait until after a conditional offer of employment has been made before making any inquiries

## ❖ Pre-Employment Testing

- ◆ Employer must be able to show that a pre-employment test is valid, i.e. has a manifest relationship to the employment relationship (Drug Testing)





# Interview Guidelines

- ❖ DFEH Guidelines
- ❖ What Questions Can You Ask
  - ◆ Protected Categories
  - ◆ Not Job Related
  - ◆ Personal Questions
- ❖ Identifying What You Are Learning
- ❖ Notes-Beware
- ❖ Who Should Not Participate





# DEIB EFFORTS

- ❖ Limitations in the law
- ❖ Seeking a diverse candidate pool
- ❖ Selections Cannot be Made based on Protected Categories
- ❖ Questions Can Be Asked About How they Would Create an Environment Supportive of a Diverse Workforce





# Candidate Selection, cont.

## ❖ Reference Checks

- ◆ Employers should seek to acquire only as much information as is needed about an applicant's prior job performance
- ◆ Defamation – beware!
- ◆ Caution: Negligent Hiring or Negligent Retention

## ❖ Consumer Credit Reports

- ◆ Limited to specific positions

## ❖ Background Investigations

- ◆ Best practice: begin the hiring process by seeking only the basic information needed to determine minimum qualifications
- ◆ Must comply with requirements of ICRAA/FCRA







# Dangers in Doing Your Own Research on Candidates

- ❖ Social Media
- ❖ Can Perpetuate Discrimination
- ❖ Can Learn Protected Information
- ❖ Do Not Know the Biases of those Providing Information
- ❖ Each Member of Panel May Gather Independent Information
- ❖ How Will It Be Communicated
- ❖ How to Handle Volunteered Information





# Conditional Employment Offer

- ❖ Generally contains the terms and conditions of employment
- ❖ Should include:
  - ◆ Title of position being offered
  - ◆ Amount of compensation and reference to benefit plan
  - ◆ Full-time/part-time and exempt/non-exempt
  - ◆ That employment is at will\*
  - ◆ If applicable, that the offer is contingent upon the individual passing any post-offer tests-drug/background/physical
- ❖ Should not include:
  - ◆ Promises of job security





# Post-Offer, Pre-Employment Considerations

## ❖ Criminal History

- ◆ California Fair Chance Act prohibits employers from:
  - Including on a job application any questions about conviction history before a conditional job offer has been made
  - Asking about or considering an individual's criminal history before a **conditional job offer** has been made.
  - Considering information about arrests and certain other convictions
  - Notice required if revoking offer and opportunity to respond





# QUESTIONS?

Alison Alpert

*Partner, BB&K Labor & Employment practice group*



**BEST BEST & KRIEGER**  
ATTORNEYS AT LAW





# Recruiting

## Finding the Right One

**Gary Phillips, *Executive Vice President/Owner***





# Bob Murray & Associates

- ❖ 22 years as a leader in Executive Search
- ❖ Focused on public sector leadership positions:
  - ◆ City
  - ◆ County
  - ◆ State
  - ◆ Special District
  - ◆ JPA
  - ◆ Non-Profits







# Public Sector – Hiring Market Trends



- ❖ Great Recession - 2008
- ❖ Pension Reform (PEPRA) – 2013

- ❖ The “Silver Tsunami” – In Full Swing
- ❖ Pandemic – 2020 - ???
- ❖ The Great Resignation – It’s Real





# Current Conditions for Recruiting

- ❖ Talent Pool Extremely Shallow –No Diving!!!
- ❖ Agencies Are Competing For The Same Few Candidates
- ❖ Candidates Have Multiple Offers





# Strategies for Recruiting in a “Candidate’s Market”

- ❖ Hire a Recruiting Firm
- ❖ Have an Aggressive Marketing Plan
  - ◆ Social Media
  - ◆ Targeted Outreach
- ❖ Be Prepared to Move Quickly
- ❖ Be Prepared to Be Competitive
- ❖ Focus on Quality-Of-Life Offerings
- ❖ Develop a Succession Plan!!!





# QUESTIONS?

Gary Phillips

*Executive Vice President/Owner*





# PANEL DISCUSSION

Click on the Q&A link to enter questions.





# Thank You!

## Next Session:

“SHARING THE WEALTH: A Deep Dive into Tax Exchange under Revenue & Taxation Code Section 99”

July 21, 2022 at 1:00 PM

*Registration to Open Soon!*







## Resources

### CALAFCO U WEBINAR TITLE:

*BRAVE NEW WORLD OF HR: Hiring Headaches, Trends and Opportunities in a Post-Pandemic World*

**DATE:** July 20, 2022

### PRESENTER INFORMATION:

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### OTHER RESOURCES:

#### ***5 Ways Managers Sabotage the Hiring Process***

Marina Glazman, Harvard Business Review | Mar 2022

<https://hbr.org/2022/03/5-ways-managers-sabotage-the-hiring-process>

#### ***7 Important Strategies to Recruiting Post-Pandemic***

Aleksa Radovic, Recruiter.com

<https://www.recruiter.com/recruiting/7-steps-to-recruiting-post-pandemic/>

#### ***Hiring And Recruitment Trends To Expect In 2022***

Eric Friedman, Forbes Human Resources Council | Feb 2022

<https://www.forbes.com/sites/forbeshumanresourcescouncil/2022/02/15/hiring-and-recruitment-trends-to-expect-in-2022/?sh=31b5b0a7279e>

#### ***Navigating Recruiting in a Post Pandemic World***

Lindsay Bray Landsberg, LinkedIn | May 2021

<https://www.linkedin.com/pulse/navigating-recruiting-post-pandemic-world-lindsay-bray-landsberg/?articleId=6751956042952835072>

#### ***Reengineering the Recruitment Process***

Harvard Business Review | Mar 2021

<https://hbr.org/2021/03/reengineering-the-recruitment-process>

