

Loss Control Tips

Employment Practices Liability

Employment practices liability (EPL) is a growing area of concern for organizations, as lawsuits related to employment practices are on the rise. In fact, by some estimates, 1 in 5 cases in civil courts is an employment-related lawsuit. Employment practices claims—including discrimination, wrongful termination and harassment—are among the most costly and time-consuming issues an employer can face. What's more, these claims pose a serious risk to an organization's stability, reputation and bottom line. That's why it's vital for organizations to establish and implement effective measures to avoid EPL claims. This resource offers helpful strategies for different aspects of employment practices to avoid possible claims.



Employee Handbooks

Employee handbooks can help protect organizations against costly claims by having written policies in place to address important issues such as attendance, harassment, paid leave, termination and at-will employment. They provide guidelines for employees to handle complaints and avoid fostering an atmosphere of noncompliance. Organizations should implement the following practices regarding their employee handbooks:

- Ensure there is a written employee handbook that is available to all employees. This handbook should be reviewed by the HR department or an attorney regularly.
- Make sure the policies in the handbook are practiced consistently throughout the organization.
- Have employees review the handbook and sign the acknowledgment form at the start of their employment. Keep the form in a personnel file.
- Outline the standards of conduct and progressive disciplinary measures in the handbook.



Harassment, Discrimination and Retaliation

It is an employer's responsibility to ensure the workplace is free from harassment and discrimination. Employers should take prompt action and handle harassment, discrimination and retaliation claims quickly and efficiently. Ignored complaints can result in low employee morale, high stress, damaged professional reputations, absenteeism and lawsuits. Organizations can take the following actions to minimize opportunities for harassment, discrimination and retaliation:

- Ensure there are separate written policies prohibiting unwelcome conduct in the workplace that is based on membership of a protected class, discrimination based on protected characteristics, and zero tolerance for harassment and discrimination.
- Make sure there are policies that address potential liability for harassment and discrimination based on the following: race, color, religion, sex (including pregnancy), national origin, age (40 or older), and disability or genetic information, among others.
- Develop a thorough complaint reporting procedure and a policy requiring prompt reporting of all harassing or discriminatory conduct.
- Conduct annual training for managers and employees about the company's nondiscrimination, anti-harassment and non-retaliation policies.
- Implement a non-retaliation policy that allows employees coming forward with a complaint to make accusations without fear of negative consequences.



Recruiting, Hiring and Onboarding

Organizations can expose themselves to risks when recruiting, hiring and onboarding new employees. Issues can arise if managers make employment decisions based on protected characteristics—including age, gender and race—or if former employees or applicants receive unfair treatment or are discriminated against. To protect against employment practices risks regarding recruiting, hiring and onboarding, organizations should consider the following:

- Make sure that there are job descriptions for each specific role within the organization. The descriptions should identify the essential job functions that are integral to each specific role. Job descriptions should be compliant with nondiscrimination, disability and equal employment opportunity laws.
- Train hiring managers on proper interviewing and hiring techniques. There should be a pre-written list of interview questions to prevent asking questions that are illegal under federal, state and local laws.
- Complete background checks and ensure they are designed to verify only information needed for security or job-related information.
- Conduct a formal orientation or onboarding program for all employees. This process should include providing important HR documents to employees and education on the company's culture, expectations and policies.



Performance Evaluations, Discipline and Termination

If not handled properly, performance evaluations, discipline and termination can open organizations up to EPL claims. There are certain legal requirements organizations must abide by to avoid costly claims. To minimize the risk of lawsuits, organizations should practice the following policies and procedures:

- Implement a consistent process for performance evaluations. Performance evaluations should be conducted for all employees at regular intervals, and the criteria should be job-related and as objective as possible.
- Make sure there is a clearly expressed, written disciplinary standard that is uniform throughout the organization. There should be a progressive discipline system in place, and any warnings—oral or written—should be recorded in the employee's personnel file.
- Establish a policy that addresses communication throughout the termination process. The HR department should conduct a full investigation of misconduct or performance sufficient to draw a complete and logical conclusion.

Learn More

It's essential for organizations to implement proper risk management precautions to avoid EPL claims. Although this resource provides a range of loss control strategies, organizations don't have to establish risk management programs alone. Working with a qualified and experienced insurance professional can make all the difference. Contact us today to discuss insurance solutions and additional loss control techniques.