

Employment Practices Liability

Sexual harassment, wrongful discharge, age and racial discrimination, negligent hiring, and ADA violations. Are these kinds of claims or losses actually covered under your current insurance policy? Whether or not a company is actually negligent is insignificant when you're served a summons. Make sure you understand what your insurance policy covers and does NOT.

Businesses are flocking to the shelter of Employment Practices Liability Insurance (EPLI) in response to the recent explosion of employment law liability claims. Employers are finding that they are vulnerable from the pre-hiring process through the exit interview, even if the employee was at the company a matter of days. **It was recently written**, "The fastest growing area of litigation and claims in this country is in Employment Practice Liability. Major lawsuits like those brought against public officials and public companies such as Mitsubishi and Ford Motor Company, have been widely reported in the news and have made employers recognize the need to protect themselves against employee-based lawsuits such as wrongful termination and sexual harassment"

These lawsuits can cost companies hundreds of thousands to defend and millions-of dollars if you're found liable. It may take only one verdict to put a smaller company out of business, not to mention ruin its reputation. Fortunately, there are things you can do to protect yourself. Here's 4 of our amazing, little know secrets:

Secret #1 - Discrimination

Develop a written anti-discrimination policy. This will be a clear reminder to all of your employees that discrimination of any kind is not acceptable in your organization

Keep medical records separate from personnel records. The American with Disabilities Act requires that medical records be treated confidentially and also prohibits pre-employment medical exams. However, exams may be conducted once an applicant is offered the job, as long as ALL employees take the exam or the test is job-related.

Make your workplace accessible for all employees with disabilities. If you are planning new construction and alterations, accessibility for persons with disabilities must be considered, not only to employees with physical disabilities, but also to those with visual and hearing difficulties

Review job descriptions and employee standards. Make sure job descriptions are well defined and in writing, as courts will use them to determine essential job functions. If possible, try to avoid job criteria that screen out people with disabilities.

Secret # 2 – Good Hiring Practices

Educate your interviewers. Race, age, religion, disabilities, marital status and other personal issues are strictly off-limits in an interview. Questions that do not directly pertain to the job should also be eliminated from your employment applications and other employee forms.

Execute an employment contract with all new employees. Upon an applicant's job acceptance, confirm in writing the employee's title, duties and compensation and any other pertinent information you feel is necessary

Follow up on background checks on potential employees. An employer can be held liable for the criminal or damaging actions of an employee, especially if a background investigation would have shown an employee's disposition for criminal behavior. Keep up with state laws, as background screening is sometimes illegal. Always have a completed, signed job application in hand prior to proceeding with background inquiries.

Secret # 3 - Sexual Harassment

Adopt a written policy against sexual harassment. Be sure to maintain confidentiality as you gather information from the complainant, the accused and other employees. A sign off from all employees should be obtained every six months and placed in their employee file

Train managers and supervisors. Clearly outline the types of conduct that are prohibited, and show teach how to educate employees on sexual harassment facts. Exercise care when discussing these matters with employees.

Secret # 4 - Wrongful Termination

Develop and distribute written termination procedures. Make sure they are clearly defined, and distribute them to your managers and supervisors as often as possible

Never promise permanent employment. Such promises, whether written or verbal, may backfire on you later. Always attempt to put all employment related transactions in writing whenever possible.

Regularly evaluate employee performance. If you give any warnings to an employee regarding his or her conduct, always have the employee sign the warning and place originally signed document in the employee's personnel file.