

Ten Tips for Avoiding Problems with Employees

By Britenae Pierce

Maintaining a healthy employee relationship is critical for employers. Above all, communicating with and informing your workforce will help prevent employment related legal trouble down the road. Here are ten tips employers should consider to avoid legal trouble with employees.

1. Hire the Right Employee

- Review resumes – over a third of resumes contain some untruth
- Check references, consider a background check
- Do not discriminate – race, color, religion, sex, marital status, national origin, age, disability, and in King County sexual orientation
- In the interview, ask open-ended, probing questions dealing with job-related issues
- Match the candidate's business style with the company's business style
- Avoiding the wrong employee can help you avoid legal trouble

2. Culture: Establish It and Live It

- Every company has a culture whether established on purpose or by happenstance
- Take the opportunity to create the culture you want in your company, then follow it
- Culture results from assumptions and understandings that underlie behavior and actions within the work environment
- Culture affects every part of your business, so use it to your advantage

3. Don't Forget Your Employee Handbook

- Use the handbook to inform and notify
- Policies should be reasonable, understandable, and explained
- Distribute the handbook to all employees
- Hold people accountable to the policies in the handbook
- Apply the policies evenly
- Make sure the handbook has a clear, unambiguous, and conspicuous disclaimer stating that the handbook is not a contract
- Have the employee sign an acknowledgement form
- Keep up to date and follow the law, especially related to employee leaves of absence
- Policies are not just for employees, but also for the employer to follow

4. Properly Classify your Employees

- Independent contractor or employee?
- Exempt or non-exempt?
- In your offer letter, state the type of employment
- Erroneous classification can lead to liability for uncollected tax, issues with employee benefit plans, reporting and employer issues, liability for unpaid overtime, etc.

5. Communicate

- Communication is a two-way street
- Communicate often

- Communicate performance expectations
- Communicate how management is responding to problems/complaints
- Communicate policies and procedures
- Allowing issues to escalate by not responding creates more trouble

6. Give Feedback, Including Reviews and Discipline When Necessary

- Clearly articulate performance expectations and give feedback on whether those expectations are being met
- Follow up on consistently poor performance – taking the time and pains to honestly evaluate an employee's performance and document it will prevent future legal trouble
- Do not surprise employees at year end evaluations or upon termination
- Have a second set of eyes review a performance evaluation
- Keep all evaluations, warnings, memoranda, etc. in the employee's personnel file
- Consider a probationary period for new hires to see if the employee is well suited to the company and position
- Make sure the employee fits into the company culture
- When employees do a good job, tell them

7. Do Not Ignore Discrimination or Harassment

- Include anti-discrimination and anti-harassment policies in the employee handbook
- Dissemination of the company's policy against harassment and discrimination is essential to any company's defense if trouble arises
- Policies should include reporting methods for harassment, including methods for bypassing a harassing supervisor
- Promptly follow up on complaints with thorough investigations and appropriate discipline
- In some cases, employers may be liable for harassment by supervisors
- Provide training to supervisors
- It is in everyone's best interest to not allow discrimination or harassment

8. Train Your Employees

- Help improve and update their skills
- Train them when hired, after a promotion
- Train managers to manage performance, get help with certain behavioral challenges
- Train employees on policies, expectations of behavior, and how to address issues
- Training benefits them and you – the company will be better able to defend itself in litigation and some problems may be avoided altogether by reducing or eliminating harassment, by complying with FMLA and ADA requirements and by establishing and consistently using sound hiring and evaluation practices

9. Terminate and Layoff Employees the Right Way

- Think through terminations and layoffs and plan the process
- Document and support the decision – this will significantly reduce legal problems by helping dispel the notion that discrimination was at the root of the termination or layoff
- Do not discriminate
- For severance packages, make sure to get waivers/releases (and that they comply with all applicable laws)
- Take advantage of the exit interview

10. Shift Focus from Staying out of Trouble to How to Optimize Employee Performance