

WHAT POLICIES SHOULD AN EMPLOYER HAVE IN PLACE TO PREVENT LAWSUITS?

Many Employers Are Unaware of the Types of Policies Necessary to Limit Lawsuit Risk or of How to Effectively Draft Employment Policies that Can Protect Against Litigation



SEPAHI LAW GROUP, APC
CALIFORNIA BUSINESS AND EMPLOYMENT LAW ATTORNEYS

Companies face the risk of litigation from employees and from customers. It is essential for employers to have policies in place to reduce the chance that a company will be sued. An experienced business law attorney should be consulted in order to help with the drafting of policies that can reduce the risk of a lawsuit occurring.

Policies an Employer Should Have to Prevent Lawsuits

Because of workers' compensation laws, employees who are hurt on the job are generally not permitted to sue an employer for injuries. The biggest legal threats that employers face from workers are thus discrimination lawsuits and wage/hour claims.

To reduce the risk of a lawsuit based on discrimination, employers must have policies in place both to prevent discriminatory behavior and to make it possible for employees to report when they are treated inappropriately.



Employers could be liable for multiple types of discrimination including:

- Quid pro quo discrimination. Job benefits are conditioned on an employee's willingness to engage in or permit sexual behavior.

- Discrimination in the terms and conditions of employment. Decisions on hiring, firing, promotion or any other terms of employment take into account a person's protected status. A supervisor, manager or other individual in a position of authority considers an employee's gender, race, religion, color, national origin, advanced age, disability status or sexual orientation.
- Hostile work environment discrimination. Employees are treated inappropriately or subject to inappropriate behavior by coworkers or peers. The work environment is unpleasant as a result.
- Disparate impact discrimination. A job requirement or qualification that may appear neutral has the effect of disqualifying a large percentage of minorities or a large percentage of individuals within any protected class.

Employers should have policies in place that are designed to prevent all of these types of discriminatory behaviors. For example, employers should consider having employment policies in place including:

- Anti-discrimination policies prohibiting the consideration of someone's gender, national origin, race, color or other protected status from being a factor in employment.
- Anti-harassment policies detailing the types of behavior in the workplace that constitutes prohibited harassment.
- Employment screening policies that limit pre-employment testing to non-discriminatory requirements and/or that limit pre-employment testing only to evaluations that have a clear relationship to the ability to perform a job.

In order to avoid being sued for hostile work environment discrimination, sexual harassment or other discriminatory behavior, employers must also have a procedure in place by which employees can make complaints. The procedure must be reasonable and the employee must not be put in a position where the only person the abuse can be reported to is one of the abusers. Companies also must respond to allegations or complaints of discrimination and take action to limit the risk of litigation.

An experienced employment law attorney should help companies in the creation of employee handbooks; hiring policies; antidiscrimination policies and other workplace documents in order to reduce the risk of litigation.

Wage and Hour Policies

In addition to discrimination, employers may also face litigation based on unpaid wages or wage and hour claims. Employees must be paid for all of the time that they work, and must be paid overtime as required by law.

If employers fail to provide proper payment to workers, they could be investigated by the



Department of Labor for wage and hour violations and could face litigation by workers to collect unpaid wages. In addition to back pay, employees may be awarded additional damages above the amount owed to them if an employer loses a lawsuit based on failure to pay wages as required by law.

Employers should have policies in place regarding overtime; on-duty and on-call time; final paychecks and issuing paychecks. The employer's policies should provide clear justification for determining which workers are classified as salaried and exempt from overtime. The employer's policies should also provide detailed criteria for determining which workers classify as employees and which workers may correctly be classified as independent contractors.

Employee Behavior Policies

Finally, employers are vulnerable to lawsuit brought by customers based on the negligence of workers. If an employee behaves negligently or carelessly on the job, the employer could be

sued by victims harmed by this negligence. While there are limited steps employers can take to reduce the risk of this type of litigation, having employment policies and behavioral codes in place could reduce the chances of a vicarious negligence claim.

Getting Help With Employment Policies

Many employers are unaware of the types of policies necessary to limit lawsuit risk or of how to effectively draft employment policies that can protect against litigation.



An experienced business law attorney can review your situation, provide advice on appropriate policies and practices for your business and assist in the creation of employment and legal documents that can protect you. Call an attorney as soon as possible so you can get started on putting appropriate policies in place to protect your company.

About Sepahi Law Group, APC



SEPAHI LAW GROUP
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Trusted Counselor and Effective Courtroom Advocate

At the Sepahi Law Group APC, we have established a reputation for providing sophisticated legal expertise, extraordinary dedication to our clients' needs and innovative solutions to the legal challenges confronting businesses. We offer the detail-oriented and specialized legal services normally associated with the largest law firms in the country while delivering the personalized attention more closely associated with smaller firms. Whether we are providing counsel on regulatory compliance and contractual terms or representing our clients in a business litigation dispute, our firm is committed to formulating a clear understanding of our clients' objectives and providing a level of service that makes it seem like we have no other client.

Providing Innovative Outside the Box Solutions in Complex Commercial Litigation and Transactions

Since our law firm was founded, we have employed compelling advocacy and innovative strategies to obtain optimal results for our clients in the courtroom. Our successful results in commercial and business litigation are the product of relentless preparation and a commitment to excellence. Our law firm can handle complex litigation involving multiple parties, multi-state parties and international entities. Our law firm has the experience and expertise to practice in state and federal courts as well as regulatory tribunals of all types and appellate courts.

Sepahi Law Group, APC
12520 High Bluff Drive, Suite 345, San Diego
CA 92130
Phone: +1 866-350-1000
Website: www.sepahilaw.net