



Rushing Toward a Lawsuit: 10 Dangerous Employee Mistakes Businesses Make

It's easy to ignore the people side of your business when things are flowing smoothly. After all, there are far more important problems nagging us each day. Relations with employees can be enjoyable and fulfilling or time consuming and terrifying, depending on the situation.

But anticipating employee problems and identifying and correcting mistakes before they become serious problems can save you countless headaches and protect your business against costly legal claims.

These are the top 10 Dangerous Employee Mistakes Businesses Make:

- 1. Failing to establish an effective sexual harassment policy.** Recent court cases have shown that employers are liable for behavior of their supervisors. It is essential that all supervisors be trained on company policies. An employer must also respond to and investigate all complaints in a timely manner.
- 2. Failing to pay overtime to nonexempt employees.** Many employers pay employees a salary regardless of the number of hours they work and whether they are subject to wage and hour laws. These employees are called as exempt employees. Non-exempt employees are those who are paid on an hourly basis. When in doubt about whether an employee is exempt or non-exempt, treat them as a non-exempt employee and pay him or her hourly wages.
- 3. Failing to complete I-9 forms on new employees.** Many employers simply photocopy employee IDs without filling out the parts of the I-9 form as required. This can be a costly mistake if the INS (Immigration and Naturalization Service) audits your organization.
- 4. Failing to take disciplinary action and document it.** Ignoring a problem with an employee isn't going to make it go away. It is important to take action and to document the problems. Employees who have been discharged for poor performance often have positive performance evaluations in their files, resulting in legal action. Proper reporting can save you from going to court.

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- 5. Failing to quickly get rid of poor performers.** When a performance problem occurs, employers should discipline employees in line with established procedures and guidelines. Failing to act can often be as bad as overreacting.
- 6. Laying off employees without considering the makeup of the group.** To avoid lawsuits when implementing a RIF (Reduction In Force), make sure that you are not laying off a disproportionately high percentage of employees within a protected group (race, ethnicity, sex, etc). The layoff decision should be based on objective criteria such as qualifications, seasonality, experience and ability to perform certain work.
- 7. Failing to get a signed release from a terminated employee.** In many cases, having the departing employee sign a release form can prevent litigation, especially if severance or separation pay is involved.
- 8. Failing to make job offers contingent upon a medical exam.** Since the ADA (Americans with Disabilities Act) prohibits employers from asking medical questions, that decision should be left up to a physician. If necessary, have a discussion with the candidate about reasonable accommodations.
- 9. Failure to take steps to keep your workforce union-free.** Employers must constantly communicate with their employees to deal with issues in the workplace. If employees do not feel their issues are being addressed, they are more likely to look for outside representation.
- 10. Failing to retain legal counsel... or depending on your lawyer for too much.** As laws and regulations become continually more complex, it is important to build a relationship with an attorney who can help keep you on top of changing employment laws.

We can all agree that it's not easy managing human resources in any organization, regardless of size. Employer regulations at the state and federal level are constantly changing. The workforce is becoming more dynamic. The expectations placed on supervisors and managers are more complex. Most businesses are trying to do more with less. That is why mistakes can happen in the world of HR management.

The list above just begins to touch the surface on how to avoid these common HR mistakes.

Are you unsure that you're covered? **Contact Patty** at **717.925.3270** or email **patty@turboexecs.com**.