

How To Not Get Sued

The ever-present threat of lawsuits is an unfortunate reality facing today's business owners. Prevention is crucial in protecting your company. This month's newsletter summarizes some fundamental business practices that every owner, executive, and manager should be vigilant in enforcing, not only to protect the company from lawsuits, but also to assist in the success and safety of your employees.

Ten Steps to Less Litigation

1. **Document everything!** It sounds simple but it is extremely important to have written records. Including performance reviews, discipline, and terminations, keep documentation of everything. It is a good idea to conduct regular audits to make sure you have all of the necessary records properly completed.
2. **Be honest** and unbiased in performance reviews. Do not say that an employee is doing a great job if he or she is not. It may come back to haunt you when you let that employee go for poor performance later in the year.
3. **Come down strongly against harassment** of any sort. In addition to having an anti-harassment policy in the employee handbook, employees should be trained to know what constitutes harassment and who to notify if it happens. Every claim should be taken seriously and investigated by a neutral supervisor or third party immediately. See Nextep's August 2006 HR Newsletter in the Resource Library at www.nextep.com for more information.
4. Along the same lines, **conduct a prompt, thorough, and unbiased investigation** into any allegations of misconduct. Be sure to interview both the accuser and accused separately and privately and keep written documents of the interview. Maintain confidentiality as much as possible, but with the knowledge that the accuser does have the right to know who is making the allegations of misconduct.
5. **Keep business-related emails.** It is important to be able to provide documentation on situations regarding terminations, harassment claims, job evaluations or other information. Don't say anything that could be misconstrued in email, even if joking, and make sure your employees keep any emails involved in litigation. See Nextep's October 2006 HR Newsletter in the Resource Library at www.nextep.com for more information.
6. **Review and update your employee handbook regularly.** Companies will sometimes implement certain parts of the handbook but not others, which effectively makes the entire document less enforceable. Legislative and employment law changes can also make certain company policies obsolete and even illegal. Nextep's HR Department has experience with handbooks and can help with these updates.
7. **Be consistent.** If allowing or disallowing something for one employee, be prepared to apply it to all similarly situated employees so there is no perceived discrimination. Remember that actions speak louder than the words in a company handbook; if the handbook says one thing, but managers often do something else, the courts will ignore the handbook's rule.
8. **Review exempt and nonexempt employees.** Carefully look at job descriptions to make sure you are not classifying someone as exempt (salaried) who should actually be receiving overtime pay. If employees are incorrectly classified, companies can face stiff penalties as well as back pay. The Department of Labor's website www.dol.gov has more information on who is considered exempt. Your Nextep HR or Payroll Specialists can help as well.
9. **Terminate carefully.** Follow all necessary steps before firing an employee. Even though Oklahoma, Texas, and several other states have at-will employment, one wrong step in the termination process can easily lead to a lawsuit. Be sure to have all proper documentation of why the employee is being terminated and to NEVER terminate employment based on protected areas such as pregnancy, ethnicity, or a disability that can be accommodated.
10. **Don't retaliate.** If you do survive a harassment, EEOC, discrimination, or other claim by an employee against your company, do not retaliate against the employee by withholding pay raises or promotions.

Name Change Notification

PacifiCare's Signature-Options plan will be changing its name to PacifiCare Signatu-reElite in order to avoid confusion in the marketplace between other similarly-named plans. This is a change in name only; all benefits and product codes will remain the same.

Spectera, Nextep's vision insurance, will also be changing its name and will be known as United Healthcare Specialty Benefits. As with PacifiCare, there will be no change to the actual benefits, providers, or disruption in service.

For more information go to www.pacificare.com or www.spectera.com.

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