



# The Guardian



Helping to Protect You from Employment Law Claims

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## ACT NOW: PROTECT YOUR COMPANY FROM EMPLOYMENT CLAIMS

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As you are undoubtedly aware, the increase in layoffs, early retirements and other workforce reduction actions, coupled with the fact that new jobs are hard to find, has resulted in a sharp rise in employee lawsuits. Under these circumstances, now is the time for employers to review their employment practices to help protect themselves from employee claims. Here are 10 tips that may help you avoid costly lawsuits:

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1. Review resumes and employment applications carefully for any "red flags" such as gaps in employment or failing to respond to certain questions. Always check references provided by the employee.
2. During the interview process, ask all applicants the same questions based on legitimate job requirements. Avoid questions related to marital status, children or child care arrangements, age, disabilities, home ownership, birthplace or national origin.
3. Remember that putting a person on salary does not automatically make that person exempt from overtime compensation under the FLSA.
4. Do not make written, verbal or implied promises of continued employment. Check your policy handbooks, applications and offer letters. Make sure that you adequately and consistently communicate a valid at-will disclaimer.
5. Become familiar with what constitutes sexual or other unlawful harassment. Be sure to maintain a harassment-free workplace and establish a no-harassment policy that includes reporting, investigating and anti-retaliation provisions. Always take prompt and appropriate action to any harassment complaint.
6. Always prepare timely and accurate documentation on an employee's job performance. Be consistent in the standards and methods used to evaluate all employees.
7. Comply with the short time frame in Arizona for giving employees their final paycheck. If an employee resigns, you must pay the employee at the next regular pay day. Failure to meet these timelines could subject the employer to treble damages.
8. Do not withhold amounts from an employee's final paycheck to offset debts owed to the company unless the employer has the employee's written consent to the withholding.
9. Take great care in preparing your response to any equal employment opportunity charge since what you say may be used against you in litigation.
10. Train your managers and supervisors on these and other good employment practices.
11. **Bonus Tip:** It is critical that your company has a policy manual. If you don't have one, get one.

### But Did You Know...

*Having a properly prepared personnel handbook can help protect you from employment law claims. Anti-discrimination and harassment policies are an important defense to such claims.*

### BITS & PIECES

When an Employee Makes a Workplace Complaint, Always Remember:

- Act quickly and appropriately.
- Conduct a thorough and impartial investigation.
- Document the investigation thoroughly. Make sure to include what happened, who was involved and how you handled the situation.
- Have effective and fair discipline policies and follow them consistently.

If you would like to have someone added to our mailing list or want your name removed, please contact Bridget at 928-445-0122

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