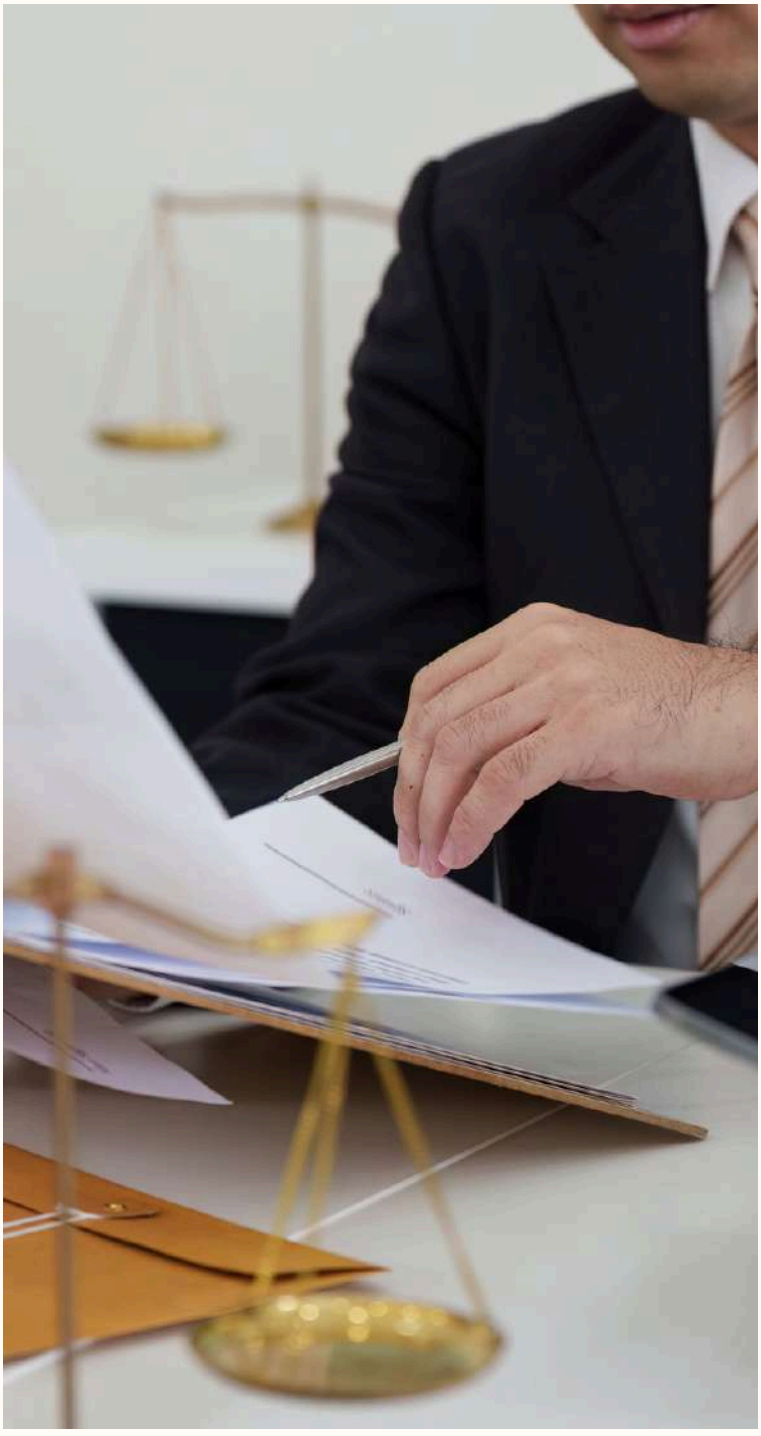
Addressing 5 Common Sources of Employment Practices Liability Insurance Claims

By Associates Insurance Agency



Employment-related claims can arise out of routine workplace decisions. An unsuccessful applicant may challenge a hiring decision, a dismissed employee may allege their termination was unlawful or a pattern of workplace conduct may escalate into a harassment complaint. These and other incidents can result in costly litigation, placing significant strain on impacted businesses. Defense costs alone can reach six figures, and settlements or jury awards can go significantly higher.

Fortunately, organizations can reduce their exposure by understanding how employment practices liability insurance (EPLI) claims commonly arise and implementing effective risk-mitigation measures in response. This article highlights five common sources of EPLI claims.

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1. DISCRIMINATION

Discrimination is one of the most frequent sources of EPLI claims and can arise from many parts of the employment relationship, including hiring, compensation, work assignments, performance management decisions and termination. Claims typically allege that an employee or job candidate was treated unfavorably because of their membership in a protected class under state or federal law, such as race, sex, age, disability, religion or national origin. Consider the following risk-mitigation measures:

- Create and enforce a written equal employment opportunity policy covering all employment decisions.
- Train managers and supervisors on anti-discrimination laws and protected characteristics.
- Use objective, documented criteria for hiring, promotion, compensation and disciplinary decisions.
- Conduct periodic audits of pay, promotion and performance data for potential disparities.
- Review job postings and application materials for language that could exclude protected groups.

2. FAILURE TO HIRE OR PROMOTE

Failure-to-hire and failure-to-promote claims can arise when hiring or promotion decisions rely on subjective criteria or lack documentation. Claims allege that a hiring or promotion decision was made based on illegal discrimination rather than job-related qualifications. Consider these risk-mitigation measures:

- Maintain written job descriptions with objective qualifications for each role.
- Document hiring and promotion decisions and the criteria used to evaluate candidates.
- Use structured interviews with consistent questions and scoring criteria.
- Review selection decisions with multiple decision-makers where practicable.
- Remove age indicators, such as graduation dates, from employment applications.

3. WRONGFUL TERMINATION

Wrongful termination claims are among the most frequently litigated employment practices liability disputes. They can arise when a current or former employee alleges that their dismissal was unlawful, discriminatory, retaliatory or otherwise improper. Implementing the following risk-mitigation measures may be advisable:

- Establish a progressive discipline policy with clear, documented escalation steps for addressing performance or conduct issues.
- Document performance issues, disciplinary actions and prior warnings.
- Review termination decisions for potential discrimination or retaliation implications before acting.

4. HARASSMENT

Harassment claims typically involve allegations of unwelcome conduct or a hostile work environment. Sexual harassment is among the most commonly alleged forms, but claims can also involve race, age, disability and other protected categories. Consider these risk-mitigation measures:

- Implement a written anti-harassment policy that defines unacceptable conduct, outlines reporting procedures and prohibits retaliation against complainants.
- Provide frequent harassment prevention training for all employees, with additional training for managers and supervisors.
- Establish a clear, accessible complaint process that allows employees to report concerns without fear of reprisal.
- Investigate all complaints promptly, thoroughly and impartially, and document findings and corrective actions.



5. RETALIATION

Retaliation often accompanies other employment-related claims. These claims typically allege that an employee was subjected to adverse treatment after reporting discrimination, harassment or other workplace concerns, assisting with a workplace investigation or engaging in another protected activity. Consider the following risk-mitigation measures:

- Train managers to recognize protected activities and actions that may be perceived as retaliatory.
- Document legitimate, nonretaliatory reasons for adverse employment actions.
- Monitor the treatment of employees who have recently reported concerns or participated in investigations.

KEY TAKEAWAYS

EPL claims can arise even in well-managed workplaces, and the cost of defending against them can be high. Fortunately, consistent policies, thorough documentation and regular workforce training can reduce the likelihood and impact of claims while demonstrating due diligence.

EPLI also plays an important role in protecting organizations from claims. This insurance covers defense costs, paying for attorneys and court fees. If a claim results in a settlement or a court award, the policy can cover those payouts, protecting the organization's cash flow and assets. Additionally, many EPLI policies also provide organizations with HR risk management support services, such as access to employment law hotlines, policy templates and training resources that help businesses reduce their exposure before a claim happens.

For more risk management guidance or to discuss EPLI, contact Associates Insurance Agency today.



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