

Risk & Compliance Solutions | Webinar

Employment Practice Risk Trends

Understanding risks, rights & obligations



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Today's panelists



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With changes in today's workplace, employers must exercise caution. You must appropriately address employer risks, rights & obligations to ensure all job candidates and employees are treated fairly and equitably.



Employment practice liability

30%

Management & Professional Liability (MPL) claim counts

44%

Management & Professional Liability (MPL) claim dollars

Source: 2020-24 TruStage™ internal claims data



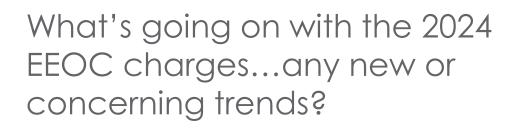




Employment practice liability claims

- Easy claims to file
- Difficult to get dismissed
- Can be extremely costly
- Plaintiff can recover attorney's fees meaning you have to defend your organization
- Takes a lot of your time to research and defend







EEOC charges



88,531 total EEOC charges in 2024 \rightarrow 9.2% increase over 2023

In 2024, top charges were:

- Retaliation 47.8%
- Disability discrimination 38.0%
- Race discrimination 34.2%
- Sex discrimination 30.4%
- Age discrimination 18.3%



Source: EEOC.gov







The office manager handles HR tasks; treatment to employee conflicts appears unfair or is not being addressed; however, the relationship causes concern. Suggestions?



Self-expression

- Religious –
- Political
- Social
- Cultural
- Geographical
- Gender —
- Relationships
- Generational
- Ethical
- Appearance-

Employers must ensure that employees are provided reasonable accommodations and protected from being discriminated against or harassed based on their religion.

should be flexible enough to tailor to specific needs of an employee, while specific enough to provide a consistent framework.

Workplace gender transition guidelines

and appearance requirements must not unreasonably burden one gender more than another.

Any policy-driven differentiated grooming

Barring any legitimate safety concerns, employers are required to make exceptions to their policies to accommodate applicants' and employees' standards





What potential risks or problems are related to AI – especially in HR decisioning?

Bias

If the human input into the system is biased, it will be reflected in the AI's decision-making process. For example: gender, race, age, or disability **Transparency** Challenging to ensure that hiring decisions are fair and based on merit rather than other factors.

Exclusion

If an AI system is trained on data that reflects your historical hiring patterns, it may perpetuate these patterns.



Employee use of artificial intelligence



75% of workers have used Gen AI tools like ChatGPT to complete tasks at work.

Source: 2024 Work Trend Index Annual Report, Microsoft & LinkedIn

68% hadn't told their bosses.

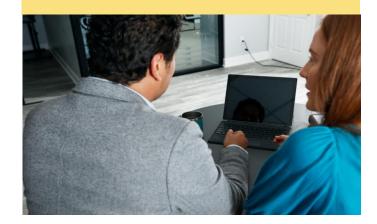
Source: Fishbowl Insights, 2/1/2023

78% brought their own tools to the workplace.

Source: 2024 Work Trend Index Annual Report, Microsoft & LinkedIn

Policies to consider:

- Use of artificial intelligence with approval
- Allowing limited use of artificial intelligence for business purposes
- Use of artificial
 intelligence prohibited





Employment practice risk resources

www.EPL-Risk.com

A one-stop resource center that provides practical, timely and actionable insights to help you and your employees stay on top of current workplace issues, legislation, and employment trends.

What's inside?

- Articles and news briefs
- On-demand training, learning seminars, podcasts, and best practice updates
- Model policies, procedures, and forms
- Model employee handbook
- Reports including tracking, notifications, and reporting

Source: The McCalmon Group

Requests for Accommodation

It is the intent of [Employer] to make its workplace equal for its applicants and employees. Circumstances may arise where reasonable accommodation for an applicant or employee is necessary to meet this objective.

Accommodations

[Employer] will make reasonable accommodations (changes or exceptions to job routines, requirements, policies, and procedures for example) when necessary [or appropriate]. What is considered a reasonable accommodation varies and is determined by a number of factors, including safety. All requests for accommodation will be evaluated on a case-by-case basis taking into consideration all known circumstances.

Accommodations for Disability

[Employer] will provide reasonable accommodation to any qui with a disability as required under federal, state or local law. individual" with a disability is any person who can perform the of a job or position with or without reasonable accommodatic with respect to an individual a physical or mental impairment limits one or more major life activities, having a record of suc being regarded as having such an impairment. Major life acticaring for one's self, walking, seeing, speaking, working, bre reading, concentrating, thinking, standing, lifting, or bending, also include major bodily functions, such as functions of the i normal cell growth, digestive, bowel, bladder, neurological, b circulatory, endocrine, and reproductive functions.

Other Accommodations

In addition to providing reasonable accommodation to person [Employer] will also make a reasonable accommodation for and the needs of employees to practice their religion. If anot asking for an accommodation, [Employer] will consider it in the addressed in this policy.

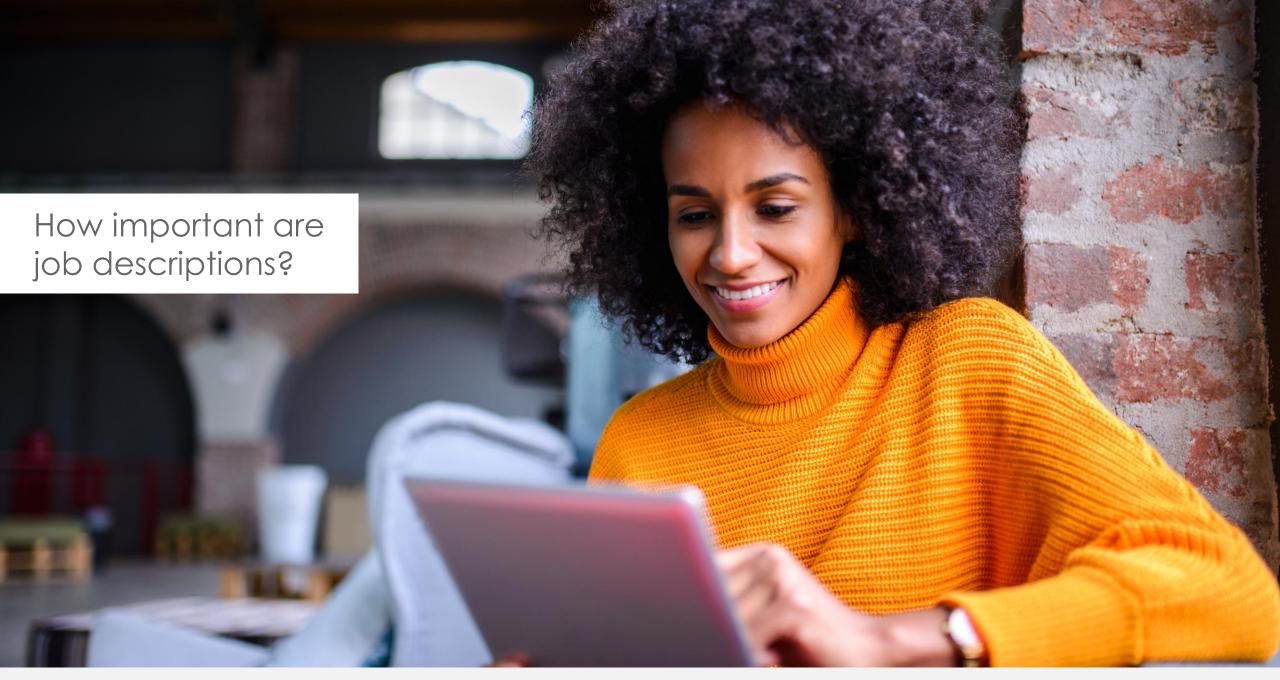
To Make an Accommodations Request

Direct your accommodation request in person or in writing to supervisor, the Human Resources Department, the Personn EEO Department e.g.]. If you feel uncomfortable making the aforementioned, you may also make an accommodation request to [the Human



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Job descriptions

- Employers should create well-written job
 descriptions for every position
- Make sure employees or potential job candidates know what their job duties will be, including how, when, and where you expect them to be accomplished
- Include all physical, mental, and environmental requirements to perform the essential job functions
- Utilize a job description to ask if they are able to perform all the tasks
- Clearly communicate why in-person work is necessary
- Discuss reasonable accommodations related to remote work

Unfortunately, poorly adopted flexible work arrangement plans can lead to increased risks.





Is it typical (industry standard) to use Arbitration Agreements as a condition of employment?

Amanda in California



Can we add requirements around keeping data safe and secure within job descriptions?





Tamika in Pennsylvania



How important is it to have a social media usage policy?

Adrian in Wisconsin



Develop an acceptable-use social media policy



- Provide consistent, strong guidelines for personal and offduty use as it relates to credit union information
- Include behavior examples that are considered acceptable/not acceptable
- Highlight how employees may use systems to access social media sites - differentiate use as it relates to personal electronic devices vs. business electronic devices
- Ensure that the policy avoids undefined broad terms that are left to an individual's interpretation

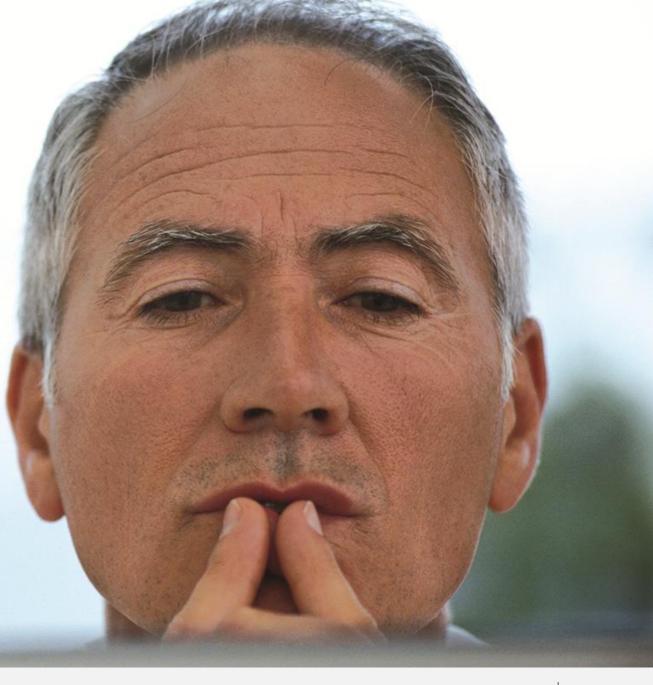
- Consider state law that can define social media to include items such as texts, blogs, emails, and instant messages
- Be clear that policy is not intended to target NLRA rights and avoid the appearance of prohibiting protected activities
- Share how policy violations and disciplinary action will be handled
- Train managers, employees, and volunteers on social media risks, your policies, and their role in mitigating risk
- Consult with an employment attorney when you're unclear of what action(s) can be taken



We are receiving some requests for remote work as a reasonable accommodation? How do we handle?



Is it advisable to include specific itemized policy violations as reason in involuntary termination letters, or to keep it high-level, such as "these actions violate company policy(ies)"?

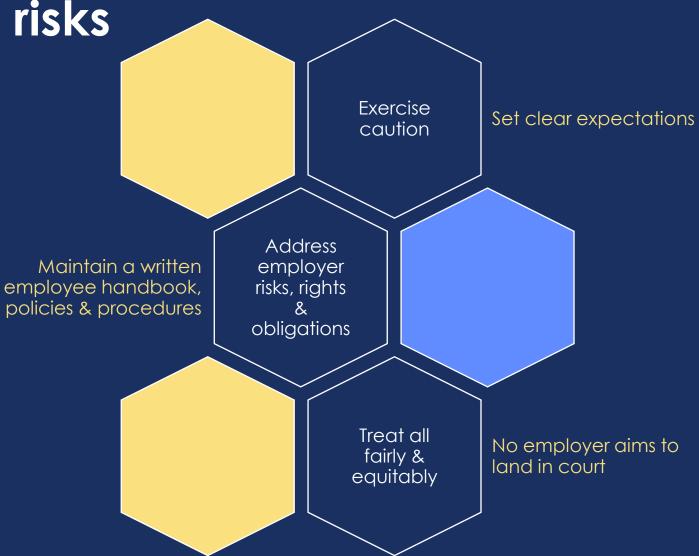




Wrap-up Employment practice risks









Employment practice risk resources

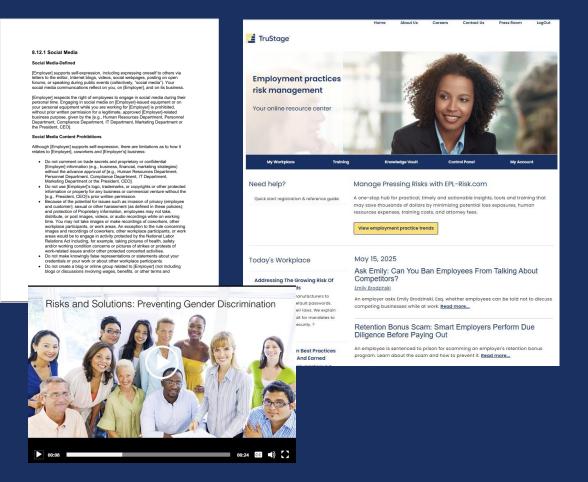
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Risk resources

Business Protection Resource Center www.trustage.com/bprc

- RISK Alerts warning | watch | awareness ٠
- Loss prevention library • - risk overviews, checklists & whitepapers
- Emerging risks outlook ۰
- Live webinars, risk forums & office hours •
- On-demand learning & interactive training modules •

"Great information, excellent format. Presenters were engaging and knowledgeable in their respective fields."

Executive Vice President - \$3B credit union



Employee handbooks are critical for providing written company policies and procedures. They serve as a tool to set forth consistent expectations for your employees. They can also be valued in the event of employee claims and can often provide a safety net for any

Common employment

Wronaful terminatio

Age discriminatio

Race discrimination

Gender discrin

Wage and hou

as an introduction and orientation for new ovees, a refresher for longer-term empli procedures, a guide to setting expectations, and More than 41% of claims dollars paid from ou nagement and Professional Liability policy we ted to Employment Practices Liability (source: iruStage™ internal claims data 2019-23). there are many components that make up a having clearly defined anti-harassment, anti ination, and anti-retaliation policies. ur corporate values and mission provide th enter framework for an employee handbook, bu

lovee handbook should remain a living document and should be

TruStage

Employment practice trends **Risk overview**

Lawsuits related to retaliation and other employment practices charges are increasing over the last five years. In fact, 88,531 charges were filed with the Equal Employment Opportunity Commission in 2024, Credit unions should have a clear, written employment practices policy; train managers and employees to follow it; and provide a safe pathway for employees to file complaints when the policy is violated.

A look at 2024 EEOC numbers..

Disability discrimination 38.09

Race discrimination 34.2%

Sex discrimination 30.4%

Age discrimination 18.3%

Most allegations by state

CY

• Texos 9,328

Florida 6.611

Georgia 6,119

Most common allegations

Retaliation 47.8%

Things you can do to get sued

Classify all employees as exempt. Improperly classifying workers as exempt can quick lead to significant wage and hour penalties. Under federal and state law, there are two types of employees: exempt (not eligible for overtime, or certain break periods) and non-exempt (entitled to overtime w, and various meal and rest breaks). Misclassif

employee can lead to penalties, and back wages. Refuse to grant a request for a reasonable The Americans with Disabilities Act (ADA) does no

mandate an employer to grant all accommodations open dialogue with employees about essential job tions, the potential for limitations due to p acreed upon.

Retallate against employees who have made claims against you. Employees are granted protection under a broad array

Pennsylvania 4,835 Illinois 5,277 "protected activities." You cannot unwittingly create environments, or take action gaginst employees, whe he/she aled management of notential workplace issues



RISK Alert

Actionable insights for bond policyholders





Carefully navigate Al's role in HR and employment practices

Alert details

share with: Board of direct Executive manager

Date: May 27, 2025

isk category

People leaders



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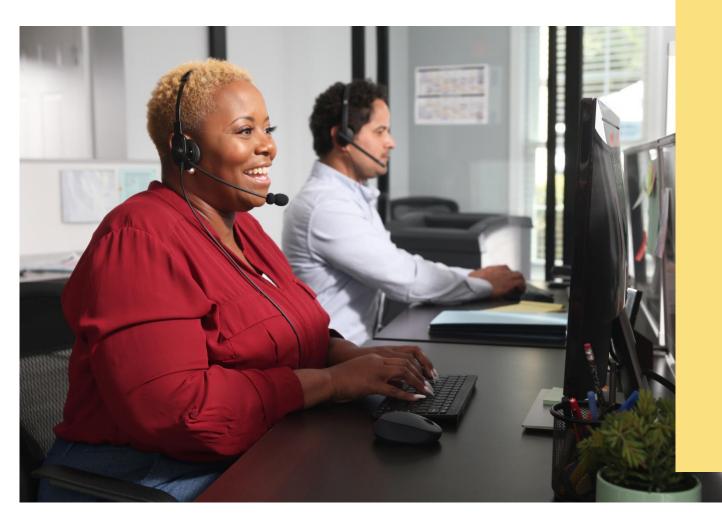
Emerging risks outlook

Rethinking protection in an era of uncertainty









Contact us

800.637.2676

- riskconsultant@trustage.com
- <u>Ask a risk manager interactive form</u>
- Schedule a 1:1 risk consultation
- <u>Report a risk or scam</u>





Thank you.

Contact riskconsultant@trustage.com 800.637.2676

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