



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





What's going on with the 2024 EEOC charges...any new or concerning trends?

EEOC charges



88,531 total EEOC charges in 2024

→ 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





Should we anticipate any changes with the administration and/or economy?



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.

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

Any policy-driven differentiated grooming and appearance requirements must not unreasonably burden one gender more than another.

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 qualified individual with a disability as required under federal, state or local law. An individual with a disability is any person who can perform the essential functions of a job or position with or without reasonable accommodation. A physical or mental impairment that substantially limits one or more major life activities, having a record of such impairment, or being regarded as having such an impairment. Major life activities include, but are not limited to, caring for one's self, walking, seeing, speaking, working, breathing, reading, concentrating, thinking, standing, lifting, or bending. Major bodily functions also include major bodily functions, such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

Other Accommodations

In addition to providing reasonable accommodation to persons with disabilities, [Employer] will also make a reasonable accommodation for persons practicing their religion. If another employee is asking for an accommodation, [Employer] will consider it in the context of the policy addressed in this policy.

To Make an Accommodations Request

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

Risks and Solutions: Preventing Gender Discrimination



A woman with dark, curly hair is smiling while looking at a laptop. She is wearing a bright yellow turtleneck sweater. She is sitting in a room with a brick wall and large arched windows in the background. The lighting is warm and natural.

How important are
job descriptions?

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.



A woman with long blonde hair and a man with a beard are shaking hands in an office. The woman is wearing a grey sweater and a watch. The man is wearing a dark blue button-down shirt. In the background, there are shelves with books and a wall with colorful sticky notes.

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?



Can we ask an applicant about salary requirements after they've seen the job description?

Tamika in Pennsylvania

A photograph of three people in an office setting. In the foreground, a woman with long brown hair and glasses is looking at a computer screen, her hand resting on her chin in a thoughtful pose. Next to her, another woman with long dark hair and glasses is also looking at the screen, appearing to be in the middle of a conversation. To the right, a man with a beard and dark hair is partially visible, looking towards the same direction. The background shows a blurred office environment with other people and computer monitors.

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 off-duty 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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Source: The McCalmon Group

The image displays a screenshot of the EPL-Risk.com website and a video player. The website header includes navigation links: Home, About Us, Careers, Contact Us, Press Room, and LogOut. The main banner features a woman's face and the text "Employment practices risk management" and "Your online resource center". Below the banner are tabs for "My Workplace", "Training", "Knowledge Vault", "Control Panel", and "My Account". The "Need help?" section offers a "Quick start registration & reference guide" and a "View employment practice trends" button. The "Today's Workplace" section highlights "Addressing The Growing Risk Of" and "Risks and Solutions: Preventing Gender Discrimination". The "May 15, 2025" section includes articles like "Ask Emily: Can You Ban Employees From Talking About Competitors?" and "Retention Bonus Scam: Smart Employers Perform Due Diligence Before Paying Out". The video player at the bottom shows a group of diverse people and a progress bar.

8.12.1 Social Media

Social Media-Defined

[Employer] supports self-expression, including expressing oneself to others via letters to the editor, Internet blogs, videos, social webpages, posting on open forums, or speaking during public events (collectively, "social media"). Your social media communications reflect on you, on [Employer], and on its business.

[Employer] respects the right of employees to engage in social media during their personal time. Engaging in social media on [Employer]-issued equipment or on your personal equipment while you are working for [Employer] is prohibited, without prior written permission for a legitimate, approved [Employer]-related business purpose, given by the [e.g., Human Resources Department, Personnel Department, Compliance Department, IT Department, Marketing Department or the President, CEO].

Social Media Content Prohibitions

Although [Employer] supports self-expression, there are limitations as to how it relates to [Employer], coworkers and [Employer's] business:

- Do not comment on trade secrets and proprietary or confidential [Employer] information (e.g., business, financial, marketing strategies) without the advance approval of [e.g., Human Resources Department, Personnel Department, Compliance Department, IT Department, Marketing Department or the President, CEO].
- Do not use [Employer's] logo, trademarks, or copyrights or other protected information or property for any business or commercial venture without the [e.g., President, CEO's] prior written permission.
- Because of the potential for issues such as invasion of privacy (employee and customer), sexual or other harassment (as defined in these policies); and protection of Proprietary information, employees may not take, distribute, or post images, videos, or audio recordings while on working time. You may not take images or make recordings of coworkers, other workplace participants, or work areas. An exception to the rule concerning images and recordings of coworkers, other workplace participants, or work areas would be to engage in activity protected by the National Labor Relations Act including, for example, taking pictures of health, safety and/or working condition concerns or pictures of strikes or protests of work-related issues and/or other protected concerted activities.
- Do not make knowingly false representations or statements about your credentials or your work or about other workplace participants.
- Do not create a blog or online group related to [Employer] (not including blogs or discussions involving wages, benefits, or other terms and

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Employment practices risk management

Your online resource center

My Workplace Training Knowledge Vault Control Panel My Account

Need help?

Quick start registration & reference guide

Manage Pressing Risks with EPL-Risk.com

A one-stop hub for practical, timely and actionable insights, tools and training that may save thousands of dollars by minimizing potential loss exposures, human resources expenses, training costs, and attorney fees.

View employment practice trends

Today's Workplace

Addressing The Growing Risk Of

Risks and Solutions: Preventing Gender Discrimination

May 15, 2025

Ask Emily: Can You Ban Employees From Talking About Competitors?

Emily Brodzinski

An employer asks Emily Brodzinski, Esq. whether employees can be told not to discuss competing businesses while at work. [Read more...](#)

Retention Bonus Scam: Smart Employers Perform Due Diligence Before Paying Out

An employee is sentenced to prison for scamming an employer's retention bonus program. Learn about the scam and how to prevent it. [Read more...](#)

Best Practices And Earned

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Risk resources

Business Protection Resource Center www.trustage.com/bprc

- RISK Alerts – warning | watch | awareness
- Loss prevention library
- risk overviews, checklists & whitepapers
- Emerging risks outlook
- 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 handbook

Development guide



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 possible employment litigation.

Employee handbooks provide opportunities to gain understanding and alignment with your employees. An employee handbook can be used as an introduction and orientation for new employees, a refresher for longer-term employees, a tool for annual review of corporate policies and procedures, a guide to setting expectations, and most importantly – a key to protection from employment litigation.

More than 41% of claims dollars paid from our Management and Professional Liability policy were related to Employment Practices Liability (EPL). TruStage™ Internal claims data 2019-23).

There are many components that make up a handbook, and these can differ by organization. One of the most important parts of your handbook is having clearly defined anti-harassment, anti-discrimination, and anti-retaliation policies.

Your corporate values and mission provide the center framework for an employee handbook, but there are key sections that must be considered when developing or enhancing your handbook to minimize risk and ensure protection.

An employee handbook should remain a living document and should be reviewed and updated on at least an annual basis. This document is not a substitute for legal advice, and should be reviewed by an attorney.

Common employment practices liability claims

- Wrongful termination
- Retaliation
- Age discrimination
- Disability discrimination
- Race discrimination
- Gender discrimination
- Harassment/hostile work environment
- Emotional distress
- Sexual harassment
- Wage and hour



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.

Things you can do to get sued

Classify all employees as exempt.
Improperly classifying workers as exempt can quickly 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 pay, and various meal and rest breaks). Misclassifying an employee can lead to penalties, and back wages.

Refuse to grant a request for a reasonable accommodation.
The Americans with Disabilities Act (ADA) does not mandate an employer to grant all accommodations; but it does require “reasonable” accommodations. How a request for accommodation was considered will often determine the scope of its reasonableness. Have an open dialogue with employees about essential job functions, the potential for limitations due to particular conditions, and what potential solutions can be mutually agreed upon.

Retaliate against employees who have made claims against you.
Employees are granted protection under a broad array of both federal and state laws for participating in “protected activities.” You cannot unwittingly create environments, or take action against employees, when the clear management of potential workplace issues or participate in investigations related to those issues.

A look at 2024 EEOC numbers...

Most common allegations


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

Note: EEOC charges can allege multiple discrimination types, causing total percentages to exceed 100%.

Most allegations by state

- Texas 9,328
- Florida 6,611
- Georgia 4,119
- Pennsylvania 4,835
- Illinois 5,277

Source: EEOC.gov, 2024



RISK Alert

Actionable insights for bond policyholders



Awareness **Watch** **Warning**

Carefully navigate AI's role in HR and employment practices

The human resources and hiring process can take a significant amount of manual work – from creating job descriptions, recruiting, sorting through applicants, interviewing, training/development, and performance evaluations, among others. Integrating artificial intelligence (AI) into human resources and your employment practices can present exciting opportunities to cut down on tasks but be aware that using AI based tools can also introduce potential legal and regulatory risks.

Alert details

The use of artificial intelligence (AI) is growing exponentially as organizations look to improve productivity and efficiency. AI is being used to manage the full employee life cycle, from sourcing and recruitment to performance management and development. Recruitment and hiring are most popular where AI is currently used for employment-related purposes, according to Staffing Industry for Human Resource Management.

However, you must navigate an increasingly complex regulatory landscape while ensuring fair and effective hiring practices and mitigating employment practice risks posed by AI. Staying on top of the regulatory landscape and knowing the current risks and best of AI use in the human resource practices are key for mitigating risk and remaining compliant with the evolving regulations.

Critical employment practice and HR risks to consider

- Unintentional bias and prejudices may inadvertently make their way into AI algorithms, reinforcing patterns based on previous trends related to gender, age, race, religion, or disability. Though AI may not intentionally screen out or favor certain protected classes, AI's choice could cause a discriminatory impact by excluding qualified candidates from underrepresented backgrounds.
- Relying on AI for employment prescreening can also remove the nuances of jobs, roles, and responsibilities.
- The use of AI in hiring and recruitment can also remove the nuances of jobs, roles, and responsibilities.
- Data privacy and security risks.


By heart, employment also gets lost.

Risk & Compliance Solutions | Presentation

Emerging risks outlook

Rethinking protection in an era of uncertainty

Proprietary and confidential. Do not distribute.



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Contact us

800.637.2676

- riskconsultant@trustage.com
- [Ask a risk manager interactive form](#)
- [Schedule a 1:1 risk consultation](#)
- [Report a risk or scam](#)



Thank you.

Contact

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