



Six Tips For Small Businesses

Insights

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You had a great idea for a product or service, or found a profitable niche to market your talents, and you're off and running. You incorporated your company, got the appropriate licenses, started marketing, and hired some employees. Everything's under control, right? Maybe not. We have seen numerous small businesses get tripped up by employment laws. While larger companies have issues, too, there are a few problems that we see more frequently with smaller businesses.

No matter how good you may be at the business side, it's crucial to make sure you take care of your obligations to your employees and the government as well. With that in mind, we present our top six employment law tips for small businesses.

1. Implement, Review, And Enforce Employment Policies

Many small companies go for years without having an employee handbook or any written policies at all. Frequently, companies start out small – with just a few employees, often including family or close friends – and no one sees the need for any formal, written policies. As the company grows, or as time goes on, no one thinks to implement policies. This is almost always a mistake. Not every company needs a lengthy set of guidelines, but all companies should have at least a few policies.

Every company should have policies aimed at the prevention of harassment and discrimination, policies setting out the operating hours and payroll practices, and vacation and sick leave policies, among others. Policies help employees understand the company's expectations of them, and know what they should expect from the company in return.

Once you have the policies in place, make sure they are consistent – with the law, with your actual practices, and with your other policies. It's also important to review your policies periodically – annually is a good practice – to make sure they are still appropriate. Finally, make sure that the policies are being followed. The best policy in the world doesn't do any good if it is ignored.

2. Comply With All Posting Requirements

Make sure your company is complying with the posting requirements under federal, state, and local laws. Employers are required to post documents setting out the minimum wage, OSHA information, family and medical leave, among other topics. It is fairly easy to comply – there are many places to purchase posters that include all of the required information – but a surprising number of

companies don't seem to get around to it. Also make sure that you are providing your employees with any pamphlets, brochures, or other information that are required by law, and that you are keeping records to confirm this. (For example, in California, employers are required to distribute an information sheet on sexual harassment.)

3. Train, Train, Train

It is critically important – and, as your company grows, may be required – to train your managers and supervisors on preventing and responding to harassment, discrimination, and retaliation. California companies with 50 or more employees or independent contractors are required to provide 2 hours of training on sexual harassment to their supervisors at least once every two years (and within 6 months of promotion or hire), and training is a good idea for all employers, everywhere.

There are numerous companies, law firms, and on-line services that provide sexual harassment training. While some of these are better than others, some training is almost certainly better than none. We also recommend providing non-supervisors with training about your harassment and discrimination policies, and about the behavior you expect of your employees.

You should also ensure that your managers and supervisors are familiar with the wage and hour laws – and particularly with overtime laws and meal and rest break requirements, if any – that apply to your company's employees.

4. Don't Try To Do It All Yourself

Many small businesses run into trouble with employment laws when company owners take on human resources duties themselves, or assign them to key managers who have been with the company for a long time. This urge, although understandable, can be extremely risky. Employment law can be tricky, and it is often counter-intuitive. Faking it is a terrible idea. The employment laws also vary dramatically by state, so getting advice from your brother-in-law across the country is frequently more harmful than helpful.

Consider hiring someone specifically to perform human resources duties, even if it's on a part-time basis. Alternatively, send the employee who will perform these duties to training on human resources and employment issues. A few seminars certainly won't make someone an expert, but will help him or her recognize potential problems before they become full-fledged disasters.

5. Get Outside Help When You Need It

Make sure that whoever is performing the human resources duties knows when to ask for help, knows where to get reliable advice, and is allowed to ask for advice. All too often, employment lawyers (or in-house counsel or human resources professionals in larger organizations) aren't contacted until after an employee has been disciplined or terminated, after an employee has been complaining about harassment for weeks or months, or after an employee has filed a claim for wages.

While getting advice up-front will not eliminate all problems, it can help you avoid some of the bigger ones. It's far better to pay an attorney for an hour of his or her time before you take an action that would violate state, local, or federal law, than it is to have that attorney tell you, after the employee has turned into a plaintiff in a lawsuit, that you broke the law and are facing significant liability and/or a lengthy legal court battle.

6. Invest In Tools That Will Help Your Company Comply With The Law

Invest in the equipment that you need to support your business. There are many instances where an up-front investment, although perhaps significant, will save you time, money, and heartache in the long run. For example, it may seem extravagant to purchase a time clock when you only have a few employees, but a single claim for overtime or missed breaks (if required in your state) will easily dwarf that expense.

Similarly, you might think that you can calculate paychecks with a calculator or an Excel spreadsheet, but you will be less likely to make mistakes or violate the law if you use a product or service intended for this purpose. You don't have to buy the top-of-the-line in every instance, but be sure to think through your decisions and their consequences.

While the requirements placed on employers can seem burdensome, spending some time and energy focusing on these areas before there are "bumps in the road" will frequently make for a smoother ride in the future.