

EEOC'S 2015 FISCAL YEAR DATA PROMPTS TOP TEN TIPS

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In the article, "EEOC's 2015 Fiscal Year Data Prompts Top Ten Tips," featured in *Biz New Orleans*, Associate Jaklyn Wrigley provides employers with ten things they can do to limit legal exposure:

1. The Application – Ensure your application is properly designed to obtain useful information, and think critically about whether you want to ask about an applicant's criminal record – the "Ban the Box" movement could apply to you.
2. The Interview – First, take a look at that polished-up application. Is it filled out neatly? Completely? Applicants who take the time to make a good first impression are more likely to be better employees. From there, conduct an effective interview. Be mindful that some things you learn cannot influence your decision (like an applicant's age).
3. The Hire – From background checks to drug and medical screens, the hiring process is a legal minefield. For one, disability charges increased by a whopping six percent last year – more than any other type of claim.
4. The Handbook – Make sure your handbook includes a discrimination and harassment prevention policy with strong anti-retaliation language, and ensure the complaint procedure is easy to use. Employers who fail to adopt such internal processes will see higher incidences of EEOC charges.
5. The Training – While all employees should be well trained, this is especially important for management. Train early and often – laws are constantly changing and a "refresher" never hurts.
6. The Treatment – Employees who believe they were treated unfairly are the ones who file discrimination claims. Treat all employees equally and you'll go a long

way in reducing your risk.

7. The Medical Issues – The ADA prohibits discrimination against qualified individuals with disabilities and requires reasonable accommodations, and the FMLA requires covered employers to grant eligible employees 12 weeks of job-protected, benefits-continued leave each year. To avoid legal problems, employers should thoroughly consider the extent to which employees may be covered by these and other laws before taking any adverse action against them.
8. The Complaints – Employees are keenly aware of their right to work in an environment free of harassment and discrimination. Usually they complain to their employers before they file EEOC charges. When they do, listen and respond – never retaliate. Almost half of all charges filed in 2015 included some form of retaliation claim. These claims can be viable even if the initial complaint lacks merit, and are generally more believable—and thus harder to defend—if a jury ultimately hears the case.
9. The Termination – Although employers should be cautious about promising “progressive discipline,” they should be reluctant to terminate employees immediately and without warning – especially for unsatisfactory performance. An employer should at least suspend the employee first to verify all the surrounding facts and to give the appearance of diligence.
10. The Lawsuits – Despite an employer’s efforts, some employees are just more litigious than others. Act as if every adverse decision could lead to litigation, seek counsel from an HR professional or a lawyer and plan accordingly.

To read the full article, please visit [*Biz New Orleans*](#).