

TOP TEN LABOR & EMPLOYMENT NEW YEAR'S RESOLUTIONS FOR 2016

Insights

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Sure, you've probably made a list of a few resolutions for 2016 already. Maybe you're going to dust off that gym membership, cut back on junk food, clean out the garage, save more money, or visit some far off locale in the new year. Those are all fine and good for your personal life, but what about resolutions for your professional life? For all of you HR professionals, managers, business owners, in-house attorneys, or other professionals with labor and employment responsibilities, here is a handy list of the top ten resolutions you should resolve to tackle in 2016.

1. Update Your Company Handbook

This is always at the top of everyone's list because you know it is so important. But it is often neglected because it seems like such a chore. Yes, it might be painful to open up your current policies and realize they haven't been updated since the Bush administration (we won't even criticize you if it's the 41st President), but the time to update your policies is now. The law in your jurisdiction has no doubt recently evolved, even if you last updated your policies in early 2015. Resolve that you will review and revise your handbook as necessary this year, paying special attention to your policies addressing family and medical leave, social media, benefits, and use of electronic devices.

2. Schedule Trainings

What good are your policies if your managers don't know how to enforce them? And what good are all of your efforts to provide a safe and legally compliant work atmosphere if your employees are unaware of them? You'll want to schedule training sessions for your

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managers to remind them of their responsibilities and provide a refresher course on your policies, and also an all-employee session to introduce any policy revisions and remind your workers of your rules.

3. Distribute Policy Reminders

If your handbook is up-to-date, you can still reinforce the importance of any of your critical policies by distributing them to all of your workers and having them sign an acknowledgment of receipt (or demonstrate electronic receipt). Most employers consider their discrimination-harassment-retaliation policies to be of utmost importance, but you can also select any areas that might need emphasis in the new year.

4. Ensure Signed Copies In File

Speaking of signed acknowledgement pages, now is a good time to review all employee personnel files to make sure you have a signed copy of each and every necessary document in each and every file. All too often, employers only learn that the signature on a key document is missing after trouble arises. Better to ensure that you have a 100% signature rate now when things are calm.

5. Conduct An I-9 Audit

Another proactive step you can take to avoid trouble in the new year is to conduct an I-9 audit. Make sure they are kept in separate binders, one for current employees and one for former employees, and make sure they are not mixed in with personnel files. You'll want to review to make sure they are completely filled out and that no authorization documents are expired. For new hires, you'll also want to ensure you are using the latest and most-current I-9 form. A full audit might require assistance of counsel.

6. Confirm Medical Confidentiality

While we're digging around personnel documents, you'll want to make sure that any medical information you have for your workers is kept separate from your personnel files. Under medical privacy law, such documentation can't be intermixed with your regular personnel records, and must be kept in a secure location only accessed by those with a genuine need to know. Train your staff to ensure compliance with this important rule.

7. Review Independent Contractor Status

If your company retains any workers as independent

contractors, you should review their status to ensure they are truly considered independent contractors in the eyes of the law. Written agreements are fine, but they aren't fool-proof solutions. Government agencies and plaintiffs' attorneys are scrutinizing these relationships and targeting possible misclassification situations, which could cause you problems down the road. As the law in this area has evolved in recent years, you should resolve to review these relationships with a fresh eye in 2016.

8. Determine Whether Arbitration And Non-Competition Agreements Are Necessary

If you haven't required your employees to enter into arbitration agreements in the past, now is the time to consider whether you should implement them for the new year. When done right, these agreements can save considerable expense and headaches if things ever sour with any of your workers. And if your jurisdiction allows, you should consider whether to implement non-competition agreements for certain portions of your workforce where it makes sense (and is legally allowed).

9. Examine Exemption Status

For your workers considered exempt from overtime requirements, you should carefully review their duties and compensation to ensure they still qualify for this status. Make sure that you aren't basing your conclusions on an outdated analysis when reviewing these important arrangements.

10. Consider How Union-Proof You Are

Finally, unless you want to be dealing with a union in 2017, you should review all of your employment policies and practices to make sure your company isn't susceptible to a union-organizing drive in 2016. Communication is often key, as is competitive compensation, perceived fairness of policies, and a positive management style. Making sure your employees feel valued is a good way to make sure they don't turn to a third party for help in the new year.

Don't get too stressed out if this list appears daunting at first glance. After all, you have 12 months to get these tasks taken care of. Resolve to get the most pressing item checked off your list by the end of January, and you'll set yourself up for a successful 2016.