

Performance News

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Is Your Company Worried About Employee Retaliation?

You can take preventive actions to minimize employee retaliation!

Far too many employers these days are facing retaliation complaints from their employees under a variety of federal and state laws. Whether it be the Title VII of the Civil Rights Act, the Family and Medical Leave Act, provisions under some workers' compensation state legislation, or the Americans with Disabilities Act, lawsuits against employers are definitely on the rise. Clearly, preventative action is called for here.

Let's examine a number of positive strategies that your company or organization can take to reduce these time consuming and expensive lawsuits.

Consider the following:

- **Develop a comprehensive anti-discriminatory and anti-retaliation policy.** This may best be accomplished with the assistance and advice of an employment lawyer. The most proactive approach is to take a zero tolerance stance against any legally defined discrimination. Included in this policy should be a very clearly designed anti-retaliation section. To make this policy work, you also have to create a very specific procedure in how management will deal with both discrimination and complaints of retaliation.
- **Train your supervisors and managers.** Supervisors and managers need to be fully trained in how to respond to retaliation complaints and know the process they need to follow. From the attitude they present to a complainant, and in how the complaint is investigated and managed, good training is key. Keeping both neutral and responsive to the complainant is the best way to contain a potentially explosive problem at the outset so it doesn't blossom into a litigious mess later on.
- **Communicate your anti-retaliation policies to all your employees.** The employee grapevine is a powerful and often under-utilized tool. A savvy employer knows how to keep their employees happy simply by keeping them included in the loop. If your workers believe you are a proactive versus a reactive employer, you stand a better chance in successfully resolving the employee's retaliation complaint before it spirals outward into the legal system.
- **Act immediately.** When a retaliation complaint is made to management, the initial person receiving the complaint should automatically advise the complainant of the company's policy and what steps will be implemented.
- **Document the retaliation complaint and any action taken.** Trained and designated management or human resource personnel should be utilized to obtain well documented facts and statements. These should be obtained from the complainant, the individual or department which is the recipient of the complaint, and any parties witness to the complaint. Pertinent information from work logs or diaries, and personnel files should be included. Describe what steps were initiated to address the complaint, what was discussed and any actions taken.
- **Be courteous and respectful to all parties.** A defensive, indifferent or hostile approach will clearly undermine the best of any anti-retaliation procedure. All parties need to be treated with respect and courtesy at all times. Alienating or antagonizing either the complainant or the accused will surely be counterproductive in resolving a complaint internally.

Retaliation complaints against employers have doubled in recent years. The law is clear. Knowing how to approach and act towards retaliation complaints can go a long way in keeping you from going to court. Even if it comes down to a legal battle, your documentation and actions can greatly reduce or positively affect what decision might be rendered.