

Employee Practices Liability Claim Response Checklist



Steps to Take After an Employment Practices Claim

Employment-related claims, such as discrimination, harassment, or wrongful termination, require a prompt and strategic response to protect both employees and your business. Proper documentation, legal compliance, and clear communication can help mitigate risks and ensure a fair resolution. This checklist outlines key steps to manage an EPL claim effectively.

1. ACKNOWLEDGE AND ASSESS THE CLAIM

- **Review the claim:** Understand the specifics of the allegation, including the nature of the claim (e.g., discrimination, wrongful termination, harassment, retaliation).
- **Identify key individuals involved:** Determine the employee(s), or the third party, making the claim, any witnesses, and any other employees involved.
- **Determine the timeline:** Understand when the alleged incident occurred, when it was reported, and any prior complaints or related issues.

2. NOTIFY KEY INTERNAL STAKEHOLDERS

- **Alert Human Resources (HR):** Ensure HR is aware of the claim and is involved in the initial response.
- **Inform legal counsel:** Contact internal or external legal counsel to guide you through the legal and procedural aspects.
- **Notify senior management:** Ensure appropriate executives or department heads are informed about the claim.

3. REVIEW INSURANCE COVERAGE & NOTIFY GRANITE INSURANCE AGENT ASAP

- **Notify your Granite Insurance Agency Team:** If you have Employment Practices Liability Insurance (EPLI), notify your agent of the claim as soon as possible.
- **Review policy limits and exclusions:** Agent will file claim and can help to confirm coverage details to understand potential limits, exclusions, and the claims process.
- **Provide necessary documentation:** Work with your insurance company claims adjuster or their legal representatives to provide any required information for the claim investigation.

4. SECURE DOCUMENTATION AND EVIDENCE

- **Collect relevant documents:** Gather all records related to the employee(s), or third parties involved in the claim, including personnel files, performance reviews, disciplinary actions, communication records, witness statements, etc.
- **Preserve communications:** Retain emails, text messages, meeting notes, or any other form of communication that may be relevant to the claim.
- **Document the claim:** Keep a detailed log of the claim's progression, including who was notified, when, and the steps taken.

5. REVIEW INTERNAL POLICIES AND PROCEDURES

- **Verify compliance with policies:** Check if company policies (e.g., anti-discrimination, harassment, grievance procedures) were followed.
- **Evaluate training records:** Ensure that relevant staff (including management) have received appropriate training on employment practices.
- **Assess historical incidents:** Look for any patterns of similar complaints or claims that might indicate systemic issues.

6. ASSESS POTENTIAL LEGAL EXPOSURE

- **Consult legal counsel:** Work closely with your attorney to understand the legal ramifications and risks associated with the claim.
- **Evaluate potential defenses:** Determine whether the company has defenses or mitigating factors (e.g., evidence of proper investigation, adherence to company policies).
- **Assess possible damages:** Estimate potential financial, reputational, and operational impacts (e.g., litigation costs, settlement, damages).

7. CONDUCT AN INTERNAL INVESTIGATION

- **Appoint an investigator:** If necessary, assign an impartial person or external investigator to conduct a fair and thorough investigation into the claim.
- **Interview relevant parties:** Speak to the claimant, the accused individual(s), and any witnesses or others who might have information related to the incident.
- **Ensure confidentiality:** Protect the privacy of individuals involved and avoid sharing sensitive details with unauthorized personnel.
- **Follow due process:** Ensure the investigation follows company procedures and legal requirements, including anti-retaliation measures.

8. DEVELOP A RESPONSE STRATEGY

- **Coordinate with HR and legal counsel:** Develop a plan for responding to the claimant, internal employees, and potentially the public.
- **Address employee concerns:** Prepare to address concerns from other employees to prevent rumors or morale issues within the workforce.
- **Prepare for potential litigation:** Develop a strategy for how to proceed if the claim escalates to a lawsuit (e.g., possible settlement, mediation, or defense strategies).

9. COMMUNICATE WITH THE CLAIMANT

- **Acknowledge the claim:** Notify the employee who filed the claim that the company is taking it seriously and that an investigation will be conducted.
- **Offer support (if appropriate):** If applicable, consider offering support (e.g., temporary changes in work arrangements) while the investigation is underway.
- **Ensure anti-retaliation measures:** Make it clear that retaliation against the claimant or witnesses will not be tolerated.

10. IMPLEMENT CORRECTIVE OR PREVENTATIVE ACTIONS

- **Address findings from the investigation:** If the investigation reveals policy violations, take appropriate corrective action, such as discipline, training, or process improvements.
- **Review and improve policies:** If necessary, update internal policies and procedures to prevent future claims or improve responses to allegations.
- **Provide additional training:** If systemic issues are identified, consider additional training for managers and staff on topics like discrimination, harassment prevention, and conflict resolution.

11. MONITOR THE SITUATION

- **Ongoing communication:** Keep key stakeholders updated on the status of the investigation and the outcome of any actions taken.
- **Ensure compliance:** Monitor to ensure the resolution is implemented and that no retaliatory or discriminatory behavior occurs post-claim.
- **Track any subsequent claims:** Keep an eye on future claims or patterns of complaints, ensuring a timely and appropriate response if necessary.

12. PLAN FOR REPUTATION MANAGEMENT

- **Develop a media strategy (if applicable):** If the claim becomes public or attracts media attention, work with PR or communications teams to manage the narrative.
- **Communicate internally:** Consider whether a company-wide message is necessary to address employee concerns while maintaining confidentiality and respect for the investigation process.