

# 5 Ways to Avoid Being Sued by Your Employees

1

Be Aware of  
COVID  
Requirements

2

Focus on  
Culture

3

Act Early  
and  
Often

4

Be  
Consistent

5

Seek  
Appropriate  
Guidance

*Laura Ingegneri*  
*HR ExecPro*

*Melanie Pate*  
*Lewis Roca Rothgerber Christie LLP*



- EEOC

- Biden's Executive Order
  - OSHA ETS
  - Federal Contractors Mandate

- Arizona Issues

Vaccinations

Accommodations

Testing

# Vaccinations

**To Require or Not to Require?**

**Should we offer incentives?**



- EEOC

- Biden's Executive Order
  - OSHA ETS
  - Federal Contractors Mandate

- Arizona Issues

Vaccinations

Accommodations

Testing

# Accommodations

- Disability
- Sincerely Held Religious Belief
- What is considered "Reasonable"?



- EEOC

- Biden's Executive Order
  - OSHA ETS
  - Federal Contractors Mandate

- Arizona Issues

Vaccinations

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Testing

# Testing Requirements

- **Who pays for testing?**
- **How often should unvaccinated employees be tested?**
- **Return to Work Considerations**



- EEOC

- Biden's Executive Order

  - OSHA ETS

  - Federal Contractors  
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# Culture Matters

- Professional
- Personable
- Respectful
- Accountable

Lead by Example

Train Supervisors  
and Employees

Deal with Problem  
Employees

# Lead by Example

- **Beginning at top level of organization**
- **All supervisors/managers**

# Culture Matters

- Professional
- Personable
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# Train Employees and Supervisors

- EEO
- Performance Management
- Safety Issues
- Hiring and Selection
- To Appropriately Report Misconduct

# Culture Matters

- Professional
- Personable
- Respectful
- Accountable

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Employees

# Hold employees accountable

- **Counseling**
- **Discipline**
- **Removal**
- **Document**

# Culture Matters

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## Act Early and Often

- Be thorough
- Be timely

Take all  
Complaints  
Seriously

Take  
Appropriate  
Action

Document,  
Document,  
Document



Take all complaints seriously:

- **Informal**
- **Anonymous**
- **Co-Worker**
- **Supervisor**

## Act Early and Often

- Be thorough
- Be timely

Take all  
Complaints  
Seriously

Take  
Appropriate  
Action

Document,  
Document,  
Document

## Take Appropriate Action

- Harassment Complaint - Investigate and take corrective action
- Deal with problem employees - through training, corrective action
- Resolve issue at hand and future issues
- Training of all employees to avoid future issues

## Act Early and Often

- Be thorough
- Be timely

Take all  
Complaints  
Seriously

Take  
Appropriate  
Action

Document,  
Document,  
Document

## Document, Document, Document

- At the time the incident occurs
- Facts, not opinions
- Reason for action
- Any difficult conversation, situation
- When you expect a future issue
- When there is something out of the ordinary

## Act Early and Often

- Be thorough
- Be timely

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Take  
Appropriate  
Action

Document,  
Document,  
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# Be Consistent

- In all employment actions:  
hiring, disciplining, firing,  
compensation, performance  
management
- Throughout the organization
- Treat your worst employee the same  
as your best employee

Written  
Directives

Pay Attention  
To Your  
Numbers



Follow all written directives

- **Administrative Rules**
- **Policies**
- **Employee Handbooks**
- **Bargaining Unit MOU's**

Develop

Update

Train

## Development of written directives

- Be thorough
- Be concise
- In plain language
- Consistent with each other



Follow all written directives

- **Administrative Rules**
- **Policies**
- **Employee Handbooks**
- **Bargaining Unit MOU's**

Develop

Update

Train

Keep updated

- With current law
- With other written directives



Follow all written directives

- **Administrative Rules**
- **Policies**
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Develop

Update

Train

The background of the slide is composed of several overlapping rectangular blocks in various shades of teal and blue. A prominent teal block is in the top-left corner. A lighter blue block is in the top-right corner. A large, medium-blue block is in the center, containing the text. Other blocks in various shades of blue and teal fill the remaining space, creating a layered, geometric effect.

Train employees and  
supervisors

- Proper application
- Internal guidance





Follow all written directives

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- 
- Hiring
  - Disciplining
  - Firing
  - Promotions
  - Special Assignments
  - Compensation

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## Seek Appropriate Guidance

- At the beginning, middle and end
- You are not expected to be knowledgeable in HR issues or employment law

HR/  
Management

Attorney

## HR and Management

- They are knowledgeable in appropriate actions to take
- They know what others in the organization are doing with similar issues

## Seek Appropriate Guidance

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- You are not expected to be knowledgeable in HR issues or employment law

HR/  
Management

Attorney



## Attorney

- Seek competent counsel in employment law
- Share all relevant facts - share good, bad, and ugly -

## Seek Appropriate Guidance

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