

E-Risk EPL HELPLINE

Top 10 Issues & Actual Questions Asked

Restaurants

These Top 10 Issues and Actual Questions are from clients currently using the HELPLINE risk management solution. In some cases, had these organizations acted on their own without first contacting the HELPLINE, there could have been increased exposure to liability. These questions were answered by the HELPLINE attorneys who are experts in over 50 issues related to employment law. The topic headers may not include all of the issues covered by each question. Any information that might identify the organization has been removed to protect the confidentiality of the communication.

Top 10 Issues

1. Policies & Procedures
2. Termination/Discharge
3. Wage/Hour – State
4. Compensation
5. Hiring Practices
6. ADA
7. Disability
8. FMLA
9. FLSA
10. Immigration

Actual Questions Asked

Termination/Discharge

I have an employee that was given a verbal warning about conflicts with fellow co-workers in the workplace. She gets into arguments with fellow co-workers and it has gotten out of hand. It is now difficult to find coverage. If other team members know that she is working they won't come in to cover any shifts. In a restaurant a harmonious work environment is essential in providing excellent service to our customers and she is disrupting the work environment. No written warnings were given, but we need to move her out as soon as possible. How can we do this without violating any laws?

Fraud/Theft/Shrinkage

I have found out a trusted employee has been stealing small amounts of money from her till. I want to fire her and I'd also like to press charges. What procedures should I take to make sure my interests are protected?

Hiring Practices

I am in charge of running background checks on newly hired employees. I run the checks after the person has been offered the position, but before they actually begin working. We have previously rescinded job offers if the background check shows a serious offense (like a violent or financial-related offense – our employees work with money and customers in-person on a daily basis). If the checks come back with dismissed charges or "not guilty" results, I do not even mention these to the hiring manager so that they will not hold it against an employee. What about pending charges? I recently had a new hire that has a pending felony theft charge. Normally this would prevent employment if the person was found guilty. Am I able to rescind or postpone an offer/employment based on a pending charge?

Disability

We have a part-time employee who had taken some time off for medical reasons (depression). We didn't hear from her so we called her and she said she assumed she had lost her job but that she would love to come back. She came back and there are speculations that she has Hepatitis. How do we address this issue?