

In my last blog I discussed how the EEOC is changing a lot of their rules to make the Americans With Disabilities Act tougher on employers and to reduce some of the watering down impacts of court decisions regarding this now 20 year old law. In this blog I want to point out some strategies, beyond just purchasing an Employment Practices Liability Insurance policy, that you can implement in your restaurant to reduce your chances of getting in trouble with the EEOC over these changes. Of course this blog is just an overview and you should consult your attorney for specific details on how to protect yourself from the power of the EEOC rules.

One of the first things you want to do is to find a way to keep a pulse on the EEOC enforcement efforts. You should bookmark the websites for your local department of labor along with the EEOC and federal Department of Labor to keep track of which kinds of things they are cracking down on so that you can be sure you avoid risk of penalties. Next take a moment to audit your own personnel policies to make sure that you are in compliance with the new EEOC regulations.

You should also be sure that you fully understand and account for leave-of-absence entitlements that are created by law. State and local governments have been aggressively expanding these entitlements and you want to be sure that you understand the tripwires for these rules so that you are in position to follow them when required.

Consider revisiting your procedures and approaches to request for reasonable accommodations as this area of the new rules places a much larger burden on you to accommodate those with special needs. You may need to provide a private space for your workers to administer medicines for example and you need to have a clear pathway for these accommodation requests to be presented to you by your employees.

Wage and hour litigation is still the number one source of employment related lawsuits. For this reason you should take a close look at your payroll policies and procedures to make sure that you are in compliance with the new rules as well as the case law developments in this area.

Make sure that you have a comprehensive social media policy in place. You want to be sure that your policies give your company the discretion to protect your rights and to discipline employees if needed for breaking the social media rules.

Last of all, take care to put in place a preventive program for retaliation in the workplace. Statistically speaking retaliation claims are on the rise. Retaliation can take your company's position on a claim from one that can be defended legally to one with no defense. This can leave your restaurant vulnerable to huge fines and settlements.

It's clear that with all of these changes and the patchwork nature of the multiple governmental organizations that can regulate your employment practices, that keeping up with all of the changes is more and more difficult all the time. If you don't have an employment practices liability insurance policy in place, please call us right away to do so. The risks are just too high and the exposure is growing rapidly in our current regulatory environment.