



EASA 2018 Convention — Milwaukee, WI

TOP 10 HR MISTAKES TO AVOID IN 2018

David D. Schein
Claremont Management Group, Inc.
Houston, TX



TOP 10 HR MISTAKES TO AVOID IN 2018

- 1. Failing to Give FMLA Notices at Beginning of a Sick Leave Period:
 - Feds will generally not allow start of 12 week required period until the official notice is given
 - FMLA notice required for Workers' Compensation leave as well.
 - Difference between regular FMLA and Workers' Compensation leave

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- 2. Misclassifying Employees as Contractors:
 - IRS will require catch-up withholding
 - Unpaid unemployment premiums may be assessed
 - Unanticipated claims for overtime, FMLA and Workers' Compensation
 - Watch for temporary help 401(k) claims at 6 months

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- 3. Failing to Provide Employee and Supervisor Training:
 - When legal claims like sexual harassment come in, employer will be required to show the EEOC that regular training was being done.
 - Legal risks continue to increase both by supervisors harassing workers or just being insensitive to this and other issues.
 - Could help to reduce workplace violence by training managers to observe and act.

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- 4. Protecting Trade Secrets:
 - New federal law requires additional notice to employees in writing.
 - All employees should sign a confidentiality/non-disclosure agreement with trade secret language.
 - Training supervisors to enforce the rules.
 - Trade secrets must be protected and cannot be everything.

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- 5. Employment Record-Keeping Not Complete:
 - Any form that requires an employee signature or completion should always be able to be located in their personnel files.
 - Examples include form accepting or rejecting health insurance, W-4 form, I-9 Form, state income tax, confidentiality/NDA form
 - Often overlooked – employee handbook and employee trainings.
 - Keep HR files locked with limited access.

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- 6. Watch for Bullying and Violent Tendencies in the Workplace:
 - Growing evidence that better supervision can reduce workplace violence.
 - Run background checks and observe behavior in the workplace.
 - Pay attention to the warning signs.
 - Secure the workplace as much as possible.

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- 7. Lunchtime Hours Tracking:
 - Most employers are being assessed unpaid wages and OT when they are audited for failure to properly track lunchtime hours.
 - Must be at least a half-hour and they must be completely off work for that half-hour.
 - Discipline employees who fail to properly clock in and out.

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- 8. Not Fighting Unemployment Claims:
 - Many employees claim unemployment even when they quit. Documenting the reason for each termination is the key. This also supports defending EEOC and other claims.
 - Multiple unemployment claims can result in a high experience factor that will increase the premium cost for usually three years.
 - Your company may be helping to finance former employees into competition with you.

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- 9. Insufficient or No Vetting of New Employees:
 - Negligent hiring claims are on the rise at the same time there are “ban the box” movements in various states.
 - Run background checks and speak to former employers. Get written permission on the application form.
 - Especially critical where an employee drives a company vehicle, operates expensive equipment or has access to company cash or credit.

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- 10. Tolerating Poor Performance for Too Long :
 - When termination results and an EEOC claim follows, hard to explain why the same poor performance was tolerated for years, but suddenly became enough of a problem to terminate them.
 - Damages morale for other employees and creates a domino effect.
 - Special rules for employees with disabilities.

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- Bonus – Government Contracts Issue:
 - Many small employers never do public sector work, or do a tiny amount. Therefore, the contracting representatives are often not paying attention to boilerplate in a federal or some state project contracts that requires preparation of and following an Affirmative Action Plan (AAP).
 - Difficult to comply with such a plan after the deadline has passed.
 - Employer can be subject to disbarment from future federal work.
 - Note that there may be several different AAPs required.

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Questions:

My next session, 9:15 to 10:15, is dedicated just to answering questions on this presentation.
Please join me after the short break.



**Thank you for attending
EASA's 2018 Convention**

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