

POLICY? I NEED A POLICY?

Every year, we get hundreds of calls from employers who want to know what the “law” is on a myriad of employment issues. In many cases, we tell them that there is no law and that it’s up to them to decide what to do.

Surprisingly enough, employers are often frustrated to hear this, as if they would be better off if the law dictated how they should proceed in every different situation. But more often than not, they don’t resent the lack of law, as much as they are frustrated by not having a policy in place that addresses the issue.

There is, of course, no requirement that employers have written policies. But if an employee filed a discrimination complaint with the Bureau of Labor and Industries (BOLI) or in court, one of the first questions that BOLI would ask is:

“The employee says you took this action because of her race, color, gender, age, etc. You are saying that this is how you treat all employees, regardless of their protected class. Do you have a policy that states that?”

If there is no policy, the employer’s past actions effectively become the policy, because there is simply no other information for the investigator or jury to draw upon.

In addition to being helpful as a legal defense, workplace policies are a great way to save both parties time, confusion and frustration. We urge you to take the time to draft workplace policies and have your attorney review and approve them. You can distribute the policies to your employees and provide training regarding their contents.

You don’t have to have a policy on every little thing that might happen. You wouldn’t have time to do anything else! And once you put together a policy, you don’t have to make a lifetime commitment to it. You can always change it or add to it, as long as you include language in the policy that expressly reserves your right to do so. (See our website at www.oregon.gov/boli/ta for more information).

But the most important thing is to get started! It might help to jot down the 10 or 15 most important things that you want your employees to know about their workplace. Some examples you might use include: How do you handle breaks and meal periods? How should employees request paid time off? What should an employee do if he believes he is being harassed? What happens when paydays fall on holidays or weekends? How is overtime earned? How should an employee communicate that they are sick or otherwise unable to come to work that day? What is the company dress code? What should employees do if they see an unsafe condition or if they themselves get hurt on the job? Once you establish the broader picture in mind, it will be easier to start filling in the details.

You might consider creating a policy-writing committee consisting of both employees and supervisors. Committee members could discuss important workplace issues and how they might be expressed in a policy. The committee can not only help get things moving, but committee members may gain valuable insights as to how others view some of the more controversial issues. But a word of caution here: you should make it very clear to the committee that they are only recommending policies and not deciding them. It may be that what sounds good to a committee is unrealistic, unnerving or even illegal!

For more information on this and other important issues affecting Oregon employers, check out our above-listed website. Good luck!