

## Colorado Employment Discrimination Defense Checklist

If you receive a discrimination complaint from the EEOC or any other employment agency in Colorado, you must respond in a timely fashion. What you say and how you respond can shape the entire case.

### *What to Do When Faced with an EEOC Complaint in Colorado*

The following information consists of basic suggestions to adequately prepare yourself and the company for going through the charge process. At a minimum, you should consider the following:

#### **Immediate Action**

1. *Acknowledge the Complaint:* Promptly acknowledge receipt of the EEOC complaint, ensuring no deadlines are missed. Note who is the point of contact and only communicate with this person.
2. *Review the Complaint:* Carefully review the details of the complaint to understand the specific allegations. It is better to take notes as you read since this is where your mind is more alert.
3. *Preserve Relevant Internal Documents:* Have HR secure all relevant documents, emails, and records that could be pertinent to the case. Have only supervisors or other personnel you trust discuss the matter.
4. *Consult Legal Counsel:* Contact your employment defense attorney immediately for guidance on the next steps.

#### **Internal Investigation:**

1. *Conduct an Objective Investigation:* Initiate an unbiased internal investigation to gather facts about the allegations. It is preferred to have legal counsel conduct the investigation since they know what questions to ask. However, if you choose to have someone else conduct the investigation, you must aim for thoroughness, completeness and non-biased conclusions.
2. *Interview Key Personnel:* Speak with individuals involved in the complaint, including witnesses, to gather their perspectives. Do not simply document the positive information. Surprises can hurt you down the road when opposing counsel challenges the fact that you never documented information that is not in your favor.
3. *Document Findings:* Keep a detailed record of your investigation's findings.

#### **Legal Preparation:**

1. *Develop a Response Strategy:* Work with your legal team to develop a response to the EEOC complaint. This is important because, a substantial amount of defense cases go sour because what was said during the EEOC response is different than what was brought up at court.

2. *Consider Mediation:* Evaluate if mediation or settlement is a viable option before proceeding to litigation. The obvious reason is to save the company costs. This is especially true when the odds of winning is closer to 50/50.

3. *Prepare for Litigation:* In case of litigation, work closely with your legal team to prepare your defense. The best cases treat each fact from the very beginning as through it were going before a jury. Depositions are tailored to cases that have achieved favorable outcomes. Many law firms conduct discovery as just “another thing that has to be done”

### **Preventative Measures:**

1. *Review Company Policies:* Regularly review and update your anti-discrimination policies and training programs. Remember, if one complaint has been launched, another could be on the way. In fact, when a compliant comes in, taking preventative measures should be done immediately.

2. *Educate Employees:* Conduct training sessions to educate employees about discrimination laws and company policies. There a quite a few educational series online that somewhat cost-effective

3. *Regular Audits:* Conduct periodic audits of your hiring, promotion, and termination processes to ensure compliance with anti-discrimination laws in Colorado.

### **Conclusion**

Remember, early legal intervention and a strategic approach are key in effectively handling EEOC complaints and employment defense.

**If you need legal representation, call us Watson & Associates, LLC at 720.941.7200.**

*Disclaimer; The information provided in this document is for informational purposes only and not legal advice. You must consult with an attorney if you have a current legal issue.*