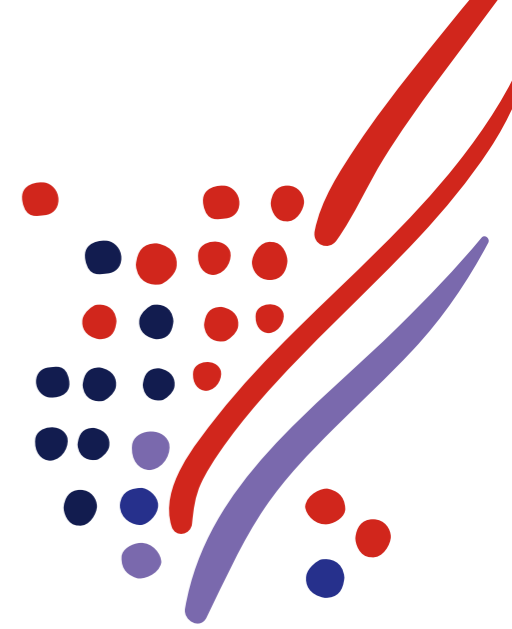


6 Must-Read Tips from 2019



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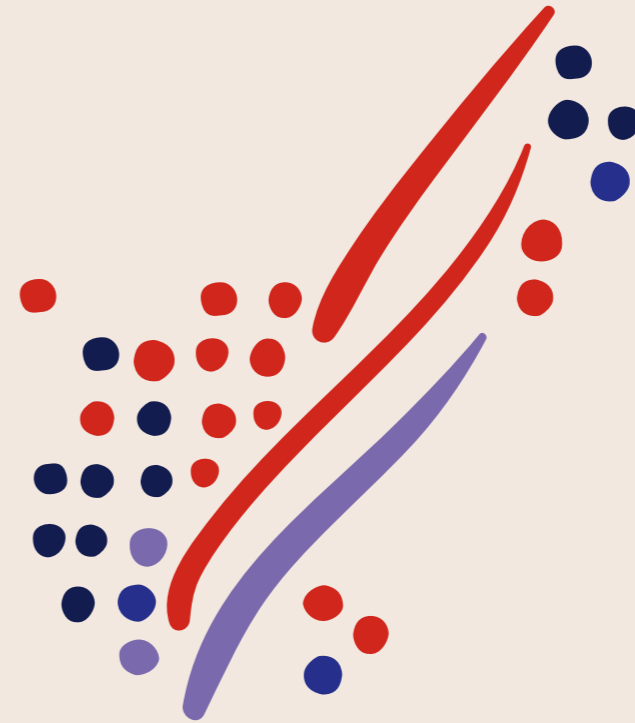
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01



Things you should never
say to your employees

Effective communication is key to a successful employer-employee relationship. Employers not only need to know what to say to employees but what not to say as well.

If not carefully worded, certain statements may lead to decreased employee morale, or result in complaints related to pay, discrimination, or wrongful termination.

Here are some statements to avoid in the workplace:

Promises:

Avoid: *“Don’t worry—you will always have a job with us.”*

Reason: If you promise an employee permanent employment, you may jeopardize their at-will employment status. “At-will” means you can terminate an employee for any reason, as long as the reason is a lawful one. To maintain at-will status, avoid statements that could be interpreted as a promise of future employment. Business conditions may change or the employee’s performance may slip, and you’ll always want to maintain flexibility to make employment decisions that are in the company’s best interest.

Note: There are exceptions to at-will employment created by contract, statute, the courts, or public policy. In addition, at-will employment is recognized in all states but Montana.

Avoid: *“Once you get past your probationary period, you’ve passed the test.”*

Reason: Probationary or introductory periods are sometimes used to assess a new hire’s performance, but can lead to confusion regarding “at-will” status. Employees sometimes mistakenly believe that once they successfully complete a probationary period, they are no longer at risk for termination based upon their performance. This misunderstanding can be created or reinforced by statements like the one above and lead to increased risk of wrongful termination claims.

Avoid: *“Money is tight this year so there will be no raises, but we will make it up to you next year.” “You didn’t get the promotion, but you will get the next one.”*

Reason: While you may have good intentions, an employee may interpret these statements as a promise of continued employment or a guaranteed raise or promotion next year. Don’t make promises that you may be unable to keep. The employee’s performance may not warrant a promotion next year and/or your budget may not allow for raises.

Problematic Requests:

Avoid: "You didn't get all your work done because there are still several errors. Punch out and finish up off the clock."

Reason: Employers must pay non-exempt employees for all hours worked. Off-the-clock work would violate this requirement. Instead, address performance issues through coaching, training, a performance improvement plan, and/or discipline.

Avoid: "Instead of overtime pay, I'll give you paid time off. For every hour of overtime, I'll give you 1.5 hours of paid time off instead of extra pay. Sound fair?"



Reason: Under federal law, non-exempt employees are entitled to overtime pay (1.5 times their regular rate of pay) whenever they work more than 40 hours in a workweek. Some states require overtime pay in additional circumstances. Employers in the private sector are prohibited from giving employees time off instead of overtime pay, a practice referred to as "comp time." With certain conditions, state and local governments may offer comp time in lieu of overtime pay.

Avoid: "Can you avoid mentioning your pay raise to co-workers?"

Reason: Under Section 7 of the National Labor Relations Act (NLRA), employees have the right to act together to improve wages and working conditions and to discuss wages, benefits, and other terms and conditions of employment, with or without a union. The National Labor Relations Board (NLRB), which enforces the NLRA, and many courts have found that pay confidentiality rules violate Section 7 rights. Additionally, some states and local jurisdictions expressly prohibit such policies. You can let employees know not every employee is receiving a raise, but you cannot ask them to avoid sharing their pay with colleagues.

Avoid: "You want time off to vote? That all depends on who you're voting for."

Reason: Some states require employers to provide time off for employees to vote. Many states also have laws prohibiting employers from coercing employees to vote in a certain way.

Harassment:

Avoid: “You look great today.”

Reason: Comments about an employee’s appearance are generally inappropriate, and may be construed as harassment or bullying. Unless your remark is related to a dress code violation, conversations should focus on an employee’s performance, rather than how they look.

Avoid: (Upon receiving a harassment complaint) “They are just having fun—grow a thicker skin.” “I don’t have time for this.” “That’s just the way they are.”

Reason: Federal, state, and local laws prohibit harassment in the workplace, and employers have a responsibility to take steps to prevent and correct unlawful harassment. Take all harassment complaints seriously and investigate each complaint promptly. If an investigation reveals that a violation occurred, take immediate and appropriate corrective action to remedy the situation.

Avoid: (During an investigation of a harassment complaint) “I believe you.”

Reason: During an investigation, you must remain neutral. Avoid any statements that could put your impartiality in question.

Discrimination:

Avoid: (Upon receiving a discrimination complaint) “That doesn’t happen here.” “I know them and they are very good people.”

Reason: The truth is, discrimination (and harassment) can happen anywhere. Such behavior can sometimes go undetected even among those who are supposed to know the harasser best. When an employee complains, never dismiss it. Investigate each complaint promptly, impartially, and thoroughly. If you have a conflict of interest (such as a personal relationship with one of the parties), assign an investigator who doesn’t.

Avoid: “You wouldn’t be interested in that promotion—it requires a lot of travel and you have a family.”

Reason: Never make assumptions based on an employee’s family status or caregiving responsibilities. Employment decisions must be made on job-related factors without considering an employee’s caregiving responsibilities or other circumstances unrelated to the job.

Avoid: *"We need to hire someone young to really understand this new technology." "We need younger employees to compete."*

Reason: Excluding older workers from certain jobs because of their age could violate nondiscrimination laws. Identify the skills, knowledge, and experience needed for the job and select candidates based on those criteria, not age or another protected characteristic.

Avoid: *"Are you pregnant?"*

Reason: Even if an employee's pregnancy seems obvious to you, avoid asking the employee whether she is pregnant. Generally, an employee is under no obligation to inform her employer that she is pregnant unless she is seeking pregnancy-related leave or an accommodation.



Leave of Absence:

Avoid: *"All this leave you are requesting eventually will have an impact on your job."*

Reason: Many federal, state, and local laws give employees the right to job-protected leave and prohibit retaliation against employees who exercise their rights to take leave. Comments like the one above could be interpreted as an attempt to interfere with the employee's right to take leave.

Avoid: *"If you want to take sick leave, you need to find a replacement worker to cover your shift."*

Reason: Several states and local jurisdictions require employers to provide paid sick leave to employees, and many of these laws expressly prohibit employers from requiring employees to find a replacement worker in order to receive pay for sick leave.

Avoid: *"I don't think men should take parental leave. Can't your wife take leave to be with the baby?"*

Reason: A number of state and local family and medical leave laws, as well as the federal Family and Medical Leave Act, give both the father and mother the right to leave to bond with a newborn or to care for a child with a serious health condition. Don't deny an employee leave because of their gender.

Performance:

Avoid: *“Your performance was perfect, so there’s no need for a performance review.” “We are too busy to conduct performance reviews this year.”*

Reason: All employees—from the top performer on down—should receive regular performance reviews. They are important not only for assessing past performance and giving praise when due, but also for establishing goals and communicating performance expectations for the next review period. In addition, they provide documentation to support future employment decisions.

Avoid: *“Tell the client I am out of the office—I don’t feel like dealing with him.” “It’s OK to break that rule because I am the boss and I am telling you it’s OK.”*

Reason: Employees tend to follow the example set by their leaders. If a supervisor ignores rules or is dishonest, employees might follow suit. Establish an ethical business culture in which everyone from the chief executive officer to the entry-level employee respects and follows the rules.

Conclusion:

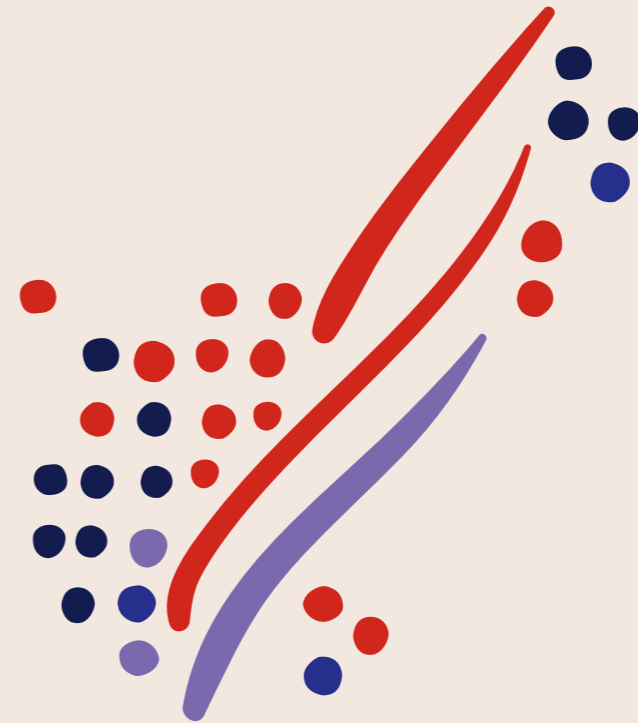
When communicating with employees, choose your words carefully and make sure they don’t undermine your efforts to comply with applicable laws and promote a fair and productive workplace. Additionally, train your supervisors to avoid statements that could be problematic.



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02



4 warning signs an employee plans to quit—and what to do about it

The costs associated with recruiting and training a new employee can be significant, especially for roles that require more experience.

That's why retaining your employees, particularly your top performers, is so important. To help you manage costly turnover, here are some warning signs that an employee is about to leave—and what you can do about it.



Warning Signs:

- **Decline in work quality and/or quantity.** Your employee's track record has always been to show up early, stay late, and crank out stellar work. While there may have been small dips in their performance here and there, this is different. Now you're seeing that while their work isn't exactly subpar, it's not up to their usual standards. You're concerned because you've noticed their work effort has declined recently.
- **Lack of interest in high-profile work.** Many top performers like to be part of high-profile projects and teams. If an employee shows a lack of interest, after wanting to get involved in projects in the past, it could be a sign that they don't see themselves working for you long-term.
- **Dip in engagement.** At staff meetings, they may have less input than before, or perhaps their contributions have been more superficial lately. They may also seem less interested in going out to lunch with colleagues or attending company functions than in the past.
- **More friction.** An employee who typically gets along with colleagues is suddenly becoming difficult to work with. The employee may be complaining a lot more than usual, perhaps about minor things that have always been a part of their job.

Your Action Plan:

- **Be proactive.** While a certain amount of turnover is inevitable, there are steps employers can take to help improve retention before these warning signs appear. Administering employee surveys and conducting exit interviews with departing employees can help you assess employee satisfaction and engagement over your entire workforce. This will allow you to course-correct if needed. A growing number of employers are also conducting “stay interviews,” asking their employees why they work for the company and what could cause them to leave.
- **Don't make assumptions.** If you notice any changes to an employee's work performance or attitude, don't assume you know the cause. While the above warning signs could reflect that the employee plans to leave, it could also mean there's something else going on. For instance, if an employee is being subjected to sexual harassment, it's possible they would exhibit some of the same behaviors, such as not wanting to show up to meetings or disengaging from company activities.
- **Meet with the employee.** Schedule a meeting with the employee in private. Start the meeting by expressing your appreciation for their contributions and be straightforward. Let them know that you've noticed changes in their performance and/or attitude and give examples. Ask if there's anything you can do to help and then give them an opportunity to speak. If they don't have an explanation at this point, try being more direct.

For instance, you could tell them that experience tells you that these are often the warning signs that an employee wants to leave their job, and you want to know whether this or anything else is the cause of their change in behavior.

- **Listen to the employee.** If the employee reveals that they are in fact considering a job elsewhere, ask them if there's anything you could do to keep them onboard. Regardless of how much you want to keep the employee, avoid making any promises.



Note: If the employee tells you that workplace misconduct has impacted their performance and attitude, launch a prompt, impartial, and thorough investigation. Keep in mind that the information the employee shares may trigger additional obligations. For instance, if the employee reveals that a disability is the reason their performance has declined, you may be required to provide the employee with a reasonable accommodation.

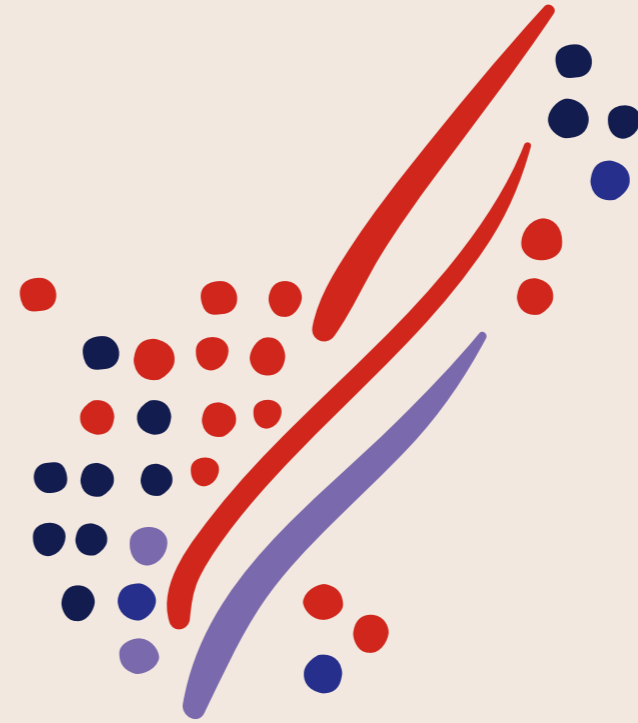
- **Consider your options.** Assess your options for addressing what the employee needs in order to stay with your company. Think about the whole picture, including the employee's value and potential cost to your company.
- **Follow up.** Schedule a follow-up meeting with the employee and talk about options to help improve engagement. Document each step of the process and keep a record of your conversation and action plan.

Conclusion:

Develop policies, practices, and benefits that reflect your company's values and effectively motivate and retain employees.



OB



Never do this when terminating
an employee

One of the most difficult aspects of being an employer is making the decision to terminate an employee. Once you determine termination is appropriate, plan for the termination discussion. Be careful what you say because mistakes here can lead to headaches down the road.

Here are some examples of statements and actions you should avoid when terminating an employee.

X Delivering the news via text message.

When possible, you should inform the employee of your decision face-to-face. There may be occasions when a face-to-face meeting isn't appropriate, such as when there's a reasonable fear for the safety of co-workers or company property and you don't want the terminated employee coming back to the workplace. In such cases, you may need to inform the employee via a phone call.

X Terminating an employee in front of co-workers.

Terminating an employee can have a negative impact on employee morale, and doing so in front of co-workers can make it even worse. The termination meeting should be held in a private location out of earshot of co-workers. Once the employee is terminated, let co-workers know about the employee's departure and explain who will be handling their work responsibilities in the future. Avoid disclosing the reason for the employee's departure.

X Meeting with the employee without a witness.

It's a best practice to have a witness, such as an HR representative, present during termination meetings, when possible. The witness can also take notes during the meeting to document what was said.

X Beating around the bush.

Once the termination meeting begins, don't delay delivering the bad news. Clearly and concisely state upfront that you are terminating their employment and provide a brief description why. For instance, "the reason for this meeting is to notify you that I am terminating your employment, effective today, because you didn't meet performance standards."

X Making false or misleading statements.

While you may show compassion (such as thanking them for their contributions and wishing them well), avoid saying anything false or misleading to soften the blow. For instance, if you are terminating because of poor performance, don't suggest possible continued or future employment.

X Arguing with the terminated employee.

Give the employee an opportunity to speak and listen to their point of view, but avoid engaging in an argument. Instead, make clear that the decision is final.

X Failing to address final pay and benefits.

Make sure you're prepared to provide information about the employee's final pay and benefits during the termination meeting. Keep in mind that there are federal and state rules for providing final pay and certain notices to terminated employees. Additionally, depending on your state, you may be required to include accrued, unused vacation and paid time off in the employee's final pay. Make sure you comply with all applicable requirements.

X Withholding final pay until they return company equipment.

As a general rule, you may not withhold final pay until an employee returns company equipment. You must meet the applicable final pay deadline even if the employee hasn't returned company property. Federal law requires final pay at the next regular payday, but several states have their own rules, some of which require final pay at the time of termination.

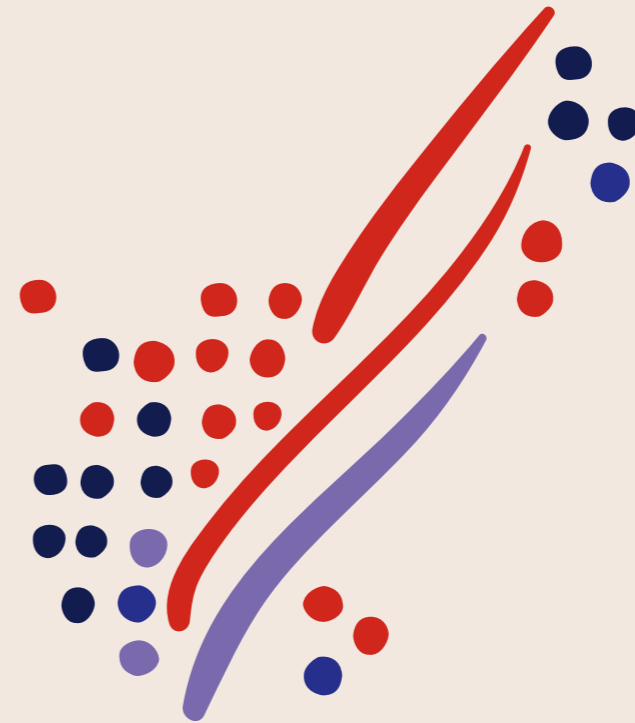
Deductions: While withholding an employee's final paycheck isn't permitted, there are some cases in which deductions may be allowed under federal law. For non-exempt employees (employees who are entitled to minimum wage and overtime), the Fair Labor Standards Act (FLSA) permits deductions for unreturned equipment as long as it does not reduce the employee's pay below the minimum wage and does not cut into any overtime pay. Some states prohibit this practice or have additional requirements, so check your state law before making a deduction. Deductions for unreturned equipment are not permitted for employees classified as exempt from overtime.

Note: Under the FLSA, employers are generally required to obtain an employee's consent before making a permissible deduction. The agreement must specify the particular items for which deductions will be made (such as company uniforms, equipment, or employee theft) and how the amount of the deduction will be determined. It's a best practice to obtain the employee's authorization in writing and consult legal counsel before making a deduction.

Conclusion:

Both the decision to terminate an employee and notifying the employee of that decision must be handled with extreme care. Make sure everyone involved in the process is properly trained.

04



11 interview questions that
can land you in hot water

Interviews are critical for finding the right fit for a job, but they must be conducted carefully in order to stay within the bounds of federal, state, and local laws.

Employers should avoid questions that are expressly prohibited by law and those that may directly or indirectly reveal an applicant is a member of a protected group.

Here are several examples of questions to avoid, along with some suggested alternatives.

Avoid #1: Do you smoke? Do you drink alcohol? Are you a medical marijuana user?

Several states prohibit discrimination against individuals who use tobacco products or engage in lawful activity while off-duty. Some states also have express employment protections for individuals who use medical marijuana while off-duty. Given these employment protections, it's best to avoid questions about whether an applicant smokes or drinks. These questions may also prompt the candidate to reveal the existence of a disability (see #8).

Alternative: Regardless of the state, employers have the right to prohibit the use of, possession of, and impairment by alcohol, marijuana, and tobacco in the workplace, during work hours, and on company property. During the interview, you may communicate your drug and alcohol policy as long as you do so consistently for all similarly situated applicants.

Avoid #2: How much did you earn in your previous job?

Some states and local jurisdictions have passed laws that restrict employers from asking about an applicant's pay history during the hiring process and/or using pay history to make employment decisions (under the premise that pay history may reflect discriminatory pay practices of a previous employer). Check applicable laws before asking these types of questions.

Alternative: These laws generally allow you to provide the candidate with the starting salary (or salary range) for the position and ask whether it would be acceptable if the candidate were offered the position. To err on the side of caution, you may also want to tell the candidate not to reveal what they earned in their previous job when answering this question.

Avoid #3: Can you provide us with the username and password for your personal social media account so we can take a look?

Many states prohibit employers from asking applicants or employees for log-in information for their personal social media and Internet accounts. Check your state law to ensure compliance.

Alternative: None.

Avoid #4: What religion do you practice? Do you have obligations that would prevent you from working Friday evenings, Saturdays, or Sundays? Do you wear that head scarf for religious reasons?

Employers are prohibited from discriminating against individuals on the basis of religion. This includes religious beliefs (both traditional as well as non-traditional) and religious practices, such as attending religious services, praying, or wearing religious garb. Generally, you should avoid questions that elicit information about religious beliefs and practices.



Alternative: If you want to confirm an applicant is able to work the hours required for the job, state the regular days, hours, or shifts for the job and ask whether the candidate can work such a schedule. Keep in mind that you may be required to reasonably accommodate an employee's religious beliefs or practices, such as allowing an employee to voluntarily swap shifts with a co-worker so that they can attend religious services. Interviewers should also be familiar with the company's dress code (or any other policy that might call for a religious accommodation) and be ready to ask applicants if they can comply, with or without a reasonable accommodation. This question can spark a discussion over possible accommodations, if applicable. If you do ask this question, be consistent and ask it of all applicants.

Avoid #5: How old are you? We went to the same high school...what year did you graduate? Do you plan to retire soon?

Under federal law, employers are prohibited from discriminating against applicants and employees who are age 40 and older. Many states also prohibit age discrimination, some protecting even younger workers. The answers to the questions above could be used to estimate the applicant's age.

Alternative: If there are minimum age requirements for a job in order to comply with a law or for insurance purposes, you may ask whether the applicant meets those requirements.

Avoid #6: You have a beautiful name...what is the origin of it? Where is your accent from? Where were you born? Where did you grow up?

Federal and many state laws prohibit employers from discriminating against applicants and employees on the basis of national origin (based on where the individual was born or because of their ethnicity or accent). Avoid these questions since they may reveal information about an applicant's national origin.

Alternative: None. However, you are permitted to ask if the applicant is authorized to work in the United States, as long as you ask this question of all candidates.

Avoid #7: Are you pregnant? Do you have or plan to have children? Are you married? Who's responsible for your children's care?

Federal law and many state laws prohibit employers from discriminating against individuals because of pregnancy. Some states also expressly prohibit employers from discriminating against applicants because of their marital and/or family status. Avoid interview questions about an applicant's pregnancy, intentions regarding pregnancy, or family and marital status.

Alternative: During the interview, explain expectations related to work hours, overtime, and travel and ask the applicant whether they can meet those requirements. Be consistent and ask these questions of all applicants (not just female applicants).

Avoid #8: Do you have a disability? How many sick days did you use last year? Will you need a reasonable accommodation on the job?

The Americans with Disabilities Act (ADA) and similar state laws generally prohibit employers from asking questions during interviews that are likely to reveal the existence of a disability.

Alternative: Under limited circumstances, the ADA allows employers to engage in a dialogue regarding whether a qualified candidate would need a reasonable accommodation to perform the essential functions of the job. For more information, see Question #15 from guidance issued by Equal Employment Opportunity Commission (EEOC).

Avoid #9: Do you have military obligations that would require you to miss work? Do you have military duties on weekends?

Under the Uniform Services Employment and Reemployment Act (USERRA), employers are prohibited from discriminating against applicants and employees due to past, present, or future membership in the uniformed services. Avoid questions about an applicant's military obligations.

Alternative: If applicants voluntarily disclose that they served in the military, such as on their resume, you may ask questions regarding relevant job-related skills acquired during their service.

Avoid #10: Have you ever been arrested or convicted of a crime?

Questions about arrests are generally off limits. Several state and local laws also limit the use of conviction records by prospective employers. For example, some expressly prohibit questions about criminal histories until after the employer makes a conditional job offer. Check applicable laws and consult legal counsel before asking about criminal history.

Alternative: Even where criminal history inquiries are permitted, they must be used in a nondiscriminatory way. According to the EEOC, employers should evaluate how the specific criminal conduct relates to the duties of a particular position.

This generally requires an individualized assessment that looks at the facts and circumstances surrounding the offense, the number of offenses for which the individual was convicted, rehabilitation efforts, and employment or character references.

Avoid #11: Have you ever filed a sexual harassment complaint? What about a workers' compensation claim?

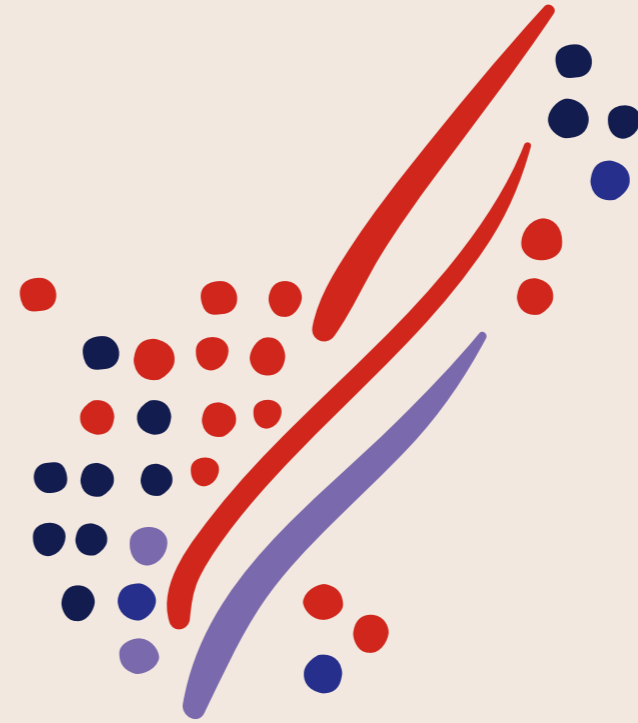
Under federal and many state laws, employers are prohibited from retaliating against individuals because they opposed unlawful sexual harassment or other forms of discrimination, or participated in a workplace investigation. Many states also prohibit discrimination against individuals because of their workers' compensation history. Questions regarding workers' compensation might also reveal the existence of a disability in violation of the ADA (see #8).

Alternative: None.

Conclusion:

Make sure your interview questions are limited to inquiries that only reveal lawful, job-related information.

05



5 seemingly 'great' ideas
that could backfire

Employers are always looking for better ways to hire, pay, motivate, and manage their employees. While some ideas can seem great in theory, in practice, they may backfire. Here are five examples.

#1: Unpaid suspensions.

"To demonstrate how serious we are about harassment, let's put any accused employee on unpaid suspension pending the outcome of our investigation."

Why it may backfire: If you routinely suspend accused employees without pay before the investigation is complete, it could call into question the impartiality of your investigation and lead to further claims of discrimination. While you may need to separate the accused employee from the accuser pending the outcome of the investigation, you can likely accomplish this without suspending the accused employee. You could, with their consent, transfer one of the parties to another department or schedule them for different shifts. If you choose to separate the employees, make sure the move doesn't burden the employee who complained of harassment, since this may look like you're retaliating against them for filing a complaint. If you think a paid suspension of the accused is warranted, check with legal counsel first.

Note: There are federal and states rules that restrict or prohibit unpaid suspensions in increments of less than one full workweek for employees who are exempt from overtime.

#2: Banning political discussions.

"We're tired of arguments over politics in the workplace. Let's just ban all political discussions."

Why it may backfire: While employers in the private sector may generally place reasonable restrictions on political discussions during work time, trying to restrict all political discussion may be impractical, could have negative effects on employee morale, and could violate certain laws if those discussions involve the terms and conditions of employment. Instead, consider monitoring the issue, and if these types of discussions become disruptive, interfere with work performance, or potentially violate nondiscrimination laws, respond in accordance with your company's written policies and practices. When monitoring employee conduct, treat all employees consistently regardless of their political views.



#3: Transparent complaints.

"Since our company culture is one of openness and honesty, we're no longer going to accept anonymous complaints. If you want to file a complaint, you need to attach your name to it."

Why it may backfire: This approach could significantly undermine your efforts to prevent and respond to discrimination, harassment, and other misconduct in the workplace. There are a variety of reasons someone who witnesses or is a victim of misconduct may want to complain anonymously and if you don't provide this option, they may be less likely to come forward. You should treat all complaints seriously, and promptly investigate the allegations, regardless of whether you know the identity of the complainant.

#4: Termination for no call/no show.

"When an employee fails to report for work without notice ("no call/no show"), it's a serious disruption to our business and unfair to other employees. For that reason, we've decided that all no call/no shows will result in automatic termination."

Why it may backfire: Extenuating circumstances, such as a serious accident, emergency, or illness may prevent employees from giving notice. This is particularly important when the employee's absence is protected under a federal, state, or local law in which the employee may not be required to provide advance notice.

Taking adverse action against an employee for a protected absence or for failing to provide advance notice could violate these laws. For these reasons, establish procedures that include attempting to contact the employee before enforcing your no call/no show policy.

#5: No more performance reviews.

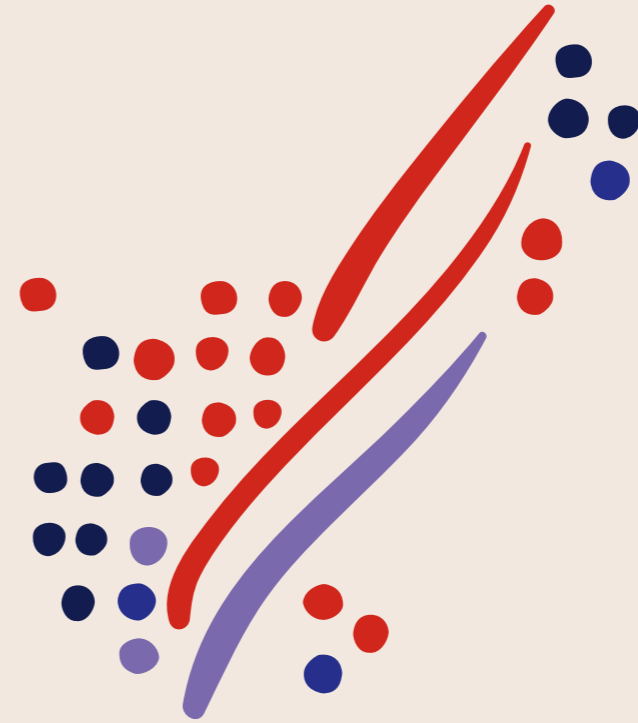
"We're getting rid of performance reviews because most of our employees and managers hate them, and we aren't even sure they're very effective."

Why it may backfire: Done right, performance reviews can help improve productivity and motivate your employees. They can also help you make informed decisions regarding promotions, training needs, pay increases, and disciplinary actions. While your employees may not like your current review process, they still want and need feedback. Instead of getting rid of performance reviews altogether, consider ways to improve the process or other effective options, such as regular check-ins, simplified and more frequent assessments, or 360° feedback.

Conclusion:

Before implementing any new initiative, make sure you fully evaluate whether it complies with federal, state and local laws and strongly consider how it will impact your business and employees.

06



9 popular employee benefits:
Are they right for you?

Employee benefits can help you demonstrate your commitment to employees and attract and retain top talent. To remain competitive in the market, employers have come up with innovative ways to compete for talent.

Here are nine popular employee benefits to consider:

#1: Flexible work arrangements.

Employees who have flexible work arrangements tend to be more satisfied with their jobs, are more likely to be productive, and have higher attendance rates than those lacking a work-life balance. Consider offering employees flexibility when and/or where they perform their work, such as work from home arrangements, compressed workweek schedules (such as four 10-hour work days per week), or flextime (early arrival and departure).

If you offer compressed workweeks, keep your overtime obligations in mind. Some states (and certain industries), including Alaska, California, Colorado, and Nevada, require overtime pay when non-exempt employees work more than a certain number of hours in a workday. However, some states may allow employers to adopt alternative schedules (eliminating the daily overtime requirement) if certain conditions are met. Check your specific law to ensure compliance.

#2: Vacation.

Offering paid vacations and adopting a company culture that encourages employees to use their time off can help attract and retain top employees. Since vacations aren't a required benefit, employers can generally determine how much time off they provide. According to the Bureau of Labor Statistics (BLS), small employers provide an average of nine vacation days after one year of service.

A small but growing number of employers offer unlimited vacation time, trusting that employees will use their professional judgment when deciding when and how much time off to take. Unlimited vacation policies can decrease the administrative burden of tracking vacation accruals and increase employee flexibility and autonomy.



#3: Paid sick leave.

Paid sick leave is another popular benefit among employees (and may be required in your jurisdiction). Several cities and states require employers to provide paid sick leave, so check your applicable law to ensure compliance.

Offering paid sick leave may be more affordable than you think. The BLS says that the average cost to small employers for offering paid sick leave in 2018 was 20 cents per hour worked (or 0.7 percent of total compensation). The benefits of a paid sick leave program may outweigh this cost. With paid leave, sick employees are more likely to stay home, decreasing the spread of germs in the workplace. This could limit additional employee absences and help to minimize a dip in productivity.

#4: Health insurance.

Health insurance can be a significant expense for employers, but it's a common benefit employees have come to expect. Options such as consumer-driven health plans (CDHPs), which are typically high-deductible health plans tied to a health savings account, are generally less expensive than traditional health plans. Additionally, small employers who meet certain eligibility criteria and who offer health coverage through the Small Business Health Options Program ("SHOP") Marketplace may qualify for a Health Care Tax Credit.

#5: Student loan assistance.

Some employers have launched programs to help employees pay down their college loans. The most common of which involves the employer paying a certain amount, such as \$50 each month, to the employee's lender. While these programs can be costly, employers can control costs by limiting the time the employee can receive the benefit, for example, three years.

Another concern is that employees who don't have unpaid college loans won't receive this benefit, which could undermine the intent of the program. With these cost and equity concerns in mind, some employers have tried to use 401(k) plans to encourage employees to pay down their college loans in other ways.

For example, some employers offer employees a matching contribution to their 401(k) plan if they set aside at least a certain percentage of their pay to repay their college loans. Employees who don't have college loans to repay can still qualify for the employer's matching contribution by making their own contributions to the 401(k) plan. If you're considering this type of benefit, consult with your tax advisor to ensure compliance with IRS rules.

#6: Retirement plan.

There are a number of options available to employers that are considering offering a retirement plan, some of which include:

- **SIMPLE IRA:** The Savings Incentive Match Plan for Employees (SIMPLE) is a tax-favored retirement plan that allows both employees and employers to contribute to traditional IRAs. Employers must make a matching contribution to participating employees (between one and three percent depending on the circumstances) or contribute two percent of each employee's compensation. Employer contributions are generally tax deductible to the employer. Tax credits of \$500 for the first three years of the SIMPLE IRA plan may be available to employers to offset the costs of establishing and administering the plan.
- **401(k) Plan:** A 401(k) plan allows both employers and employees to make contributions toward retirement savings. Unlike a SIMPLE IRA, there is no employer contribution requirement. Compared with IRA-based plans, the 401(k) plan is attractive to employees because the maximum contributions are generally higher than the SIMPLE IRA. However, 401(k) plans may have higher administrative costs than IRA-based plans because 401(k) plans are more complicated to maintain.
- **Profit Sharing:** A profit-sharing plan can be an attractive retirement savings plan option for employers that have concerns about cash flow. With this type of plan, the employer can decide from year to year whether (and how much) to contribute to the plan

based on what they can afford in that particular year. However, these plans tend to have higher administrative costs and more requirements than SIMPLE IRA plans or SEP Plans (see below).

- **SEP Plan:** A Simplified Employee Pension (SEP) plan is a retirement plan where an IRA is established for each employee, which is funded solely through company contributions. A business establishing an SEP Plan may decide whether, and how much, to contribute each calendar year up to a certain amount set by the IRS. Qualified employers may also be eligible for a tax credit (\$500 per year for the first three years of the plan) for establishing a SEP Plan and employer contributions are tax deductible on the employer's tax return.
- **Payroll Deduction IRA:** A payroll deduction IRA (Individual Retirement Account) allows employees to save for retirement without an employer-sponsored retirement plan. The employee establishes the IRA with a financial institution and then authorizes the employer to make payroll deductions from the employee's salary and contribute them to the IRA.
- **State-Run Plan:** Several states, such as California, Connecticut, Illinois, Maryland, and Oregon, have enacted legislation that creates a state-run retirement program that workers in the private sector can join. These programs are designed for employees whose employers don't offer a retirement plan. While run by the state, these programs typically still impose some obligations on employers, such as withholding employee contributions and remitting them to the plan. Some require employers to automatically enroll employees in the plan. Check your state law to ensure compliance.

#7: Professional development.

Providing employees with development opportunities is a low-cost benefit and an effective retention tool. Consider mentoring, job shadowing, and professional development classes to help retain top talent. Engage employees on a regular basis to determine their career development interests and offer options accordingly.

#8: Recognition.

Recognition is a simple, low-cost way for employers to motivate employees by showing appreciation for a job well done. Consider recognition through an “Employee of the Month” program, an announcement in company communications, or a note from a supervisor or head of the company.

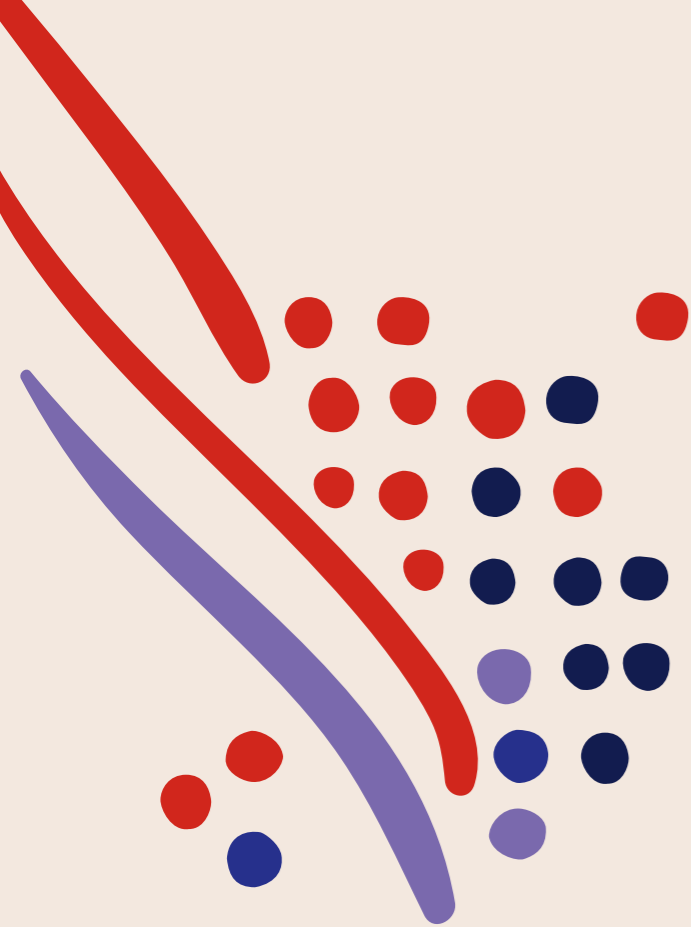
#9: Commuter assistance.

The IRS allows employees to pay for certain commuting costs on a pre-tax basis (via payroll deductions), which may result in significant tax savings for employers and employees. Some state and local jurisdictions have begun requiring certain employers to offer such benefits. The IRS also allows employers to subsidize certain commuting costs on a tax-free basis. These commuter benefits apply to qualified transportation benefits that meet certain requirements, including a ride in a commuter highway vehicle, a transit pass, or qualified parking.

Conclusion:

Assess which benefits make the most sense for your business by considering the costs, the impact on recruitment and retention, employee needs, and company culture.





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