

BAILEY | CAVALIERI

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THE 10 ESSENTIALS OF WORKPLACE LOSS PREVENTION

1. **GET OFF TO A GOOD START; PRESERVE EMPLOYER RIGHTS FROM THE OUTSET**
 - Applications
 - Interviews
 - Offer Letters
 - Orientations
 - I-9 Forms
 - Background Checks

2. **MAKE SURE YOUR RULES AND EXPECTATIONS ARE CLEAR**
 - Employment Contracts
 - Binding Arbitration Agreements
 - Employee Handbooks
 - EEO Posters
 - Consent Forms (*e.g.*, drug testing; electronic communications)

3. **TRAIN AND MANAGE YOUR SUPERVISORS AND MANAGERS**
 - At-Will Doctrine and Exceptions
 - EEO Obligations (including ADA accommodation)
 - Effective Management and Communication
 - Basics of FLSA and FMLA

4. **BEWARE OF MISGUIDED INVESTIGATIONS**
 - Limit Those Who May Investigate
 - Train Investigators
 - Investigate Promptly
 - Investigate Thoroughly (But Don't Go Too Far!)
 - Be Discreet with Product of Investigation

5. **DO NOT IGNORE PERFORMANCE ISSUES**
 - Avoid the Temptation to be "Well-Liked"
 - Advise Employees of Expectations
 - Provide Training and Opportunity to Succeed
 - Truthfully Assess and Document Underperformance
 - Reassign or Terminate

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6. ESTABLISH AND ENFORCE A CODE OF CONDUCT

- Implement Strict Anti-Harassment Policy
- Establish electronic Communication Policy
- Distribute and Emphasize Important Policies
- Conduct Employee and Supervisor Training
- Demand Supervisor Compliance and Enforcement

7. AGGRESSIVELY DEAL WITH MISCONDUCT

- Confirm Employee Knowledge of and Basis for Work Rule
- Demand Compliance With Rules and Standards
- Document Misconduct and Consequences for Failure to Comply
- Terminate if Misconduct Persists

8. MAKE TERMINATION DECISIONS CAREFULLY

- Limit Authority to Terminate to One Person or Committee
- Review and Confirm All Facts (Does Documentation Support the Decision?)
- Be Consistent
- Be Able to Articulate the Business Justification
- Communicate Decision Honestly and Consistently
- Consider Severance Agreements

9. MAINTAIN CONFIDENTIALITY

- Safeguard Company Trade Secrets
- Safeguard Sensitive Employee Files
- Set Strict Rules on Post-Employment References
- Share Confidential Information Only With Employees Who Need to Know

10. DON'T FORGET THE GOLDEN RULES

- Document Everything in a Professional Manner
- Assume a Jury Will See Everything You Document
- Compliance with Law is Often Not Enough to Avoid Liability; You Must be Fair!