

PROFESSIONAL LIABILITY

Employment practice liability claims solutions

Employment-related claims and lawsuits can pose a devastating threat to businesses and the trend for these claims is rising, with social media escalating the process. Our team has extensive experience handling employment practice liability claims and we offer tailored solutions to meet your needs.

Any business that has employees is a potential target for an employment practice liability claim. The resulting costs can be staggering; they include tangible costs, such as litigation expenses, and intangible costs including lost production time from investigations, preparing for deposition and addressing employee concerns.

Employment practice liability claims assert various allegations of discrimination of persons with protected status resulting in disparate treatment, disparate impact and/or failure to accommodate, and pose serious objective and subjective damage perils to defendant employers. Similar exposures even extend to businesses without employees if the same types of misconduct are alleged by customers, vendors or other visitors. These claims may also arise resulting from mergers, downsizing and salary freezes. If not managed by experienced claims professionals, employment practice liability claims may result in negative public opinion, excessive legal bills and settlement costs, and loss of potential future qualified hires.

Claim types

The U.S. Equal Employment Opportunity Commission (EEOC) supports specific claim types and many states have created their own employment rights departments, expanding the types of claims that may be brought.

Below are the claim types supported by the EEOC:

- Age
- Disability
- Equal pay/compensation
- Harassment
- Genetic information
- National origin
- Pregnancy
- Race/color
- Religion
- Retaliation
- Sex
- Sexual harassment

Understanding the process

In general, the EEOC process, applicable to every state and the American territories, has stages:

- Claim is filed by an employee or ex-employee
- EEOC will notify the employer within ten days
- Investigation
 - EEOC has the right to investigate and may subpoena records and witnesses; EEOC may request a written Statement of Position, issue a Request for Information, or request an on-site visit for interviews and to obtain records
 - EEOC may offer voluntary mediation or settlement very early in the process
 - The average EEOC investigation takes ten months to complete



- Determination
 - EEOC may be unable to determine, and will issue a Dismissal and Notice of Rights; the complainant has 90 days to file suit
 - EEOC may, if a finding of discrimination is made, issue a Letter of Determination
 - The parties are offered an opportunity to resolve by conciliation
 - If conciliation is not successful, the EEOC may file suit, or may issue a Right to Sue letter enabling the complainant to file suit in federal court
- Opt out
 - The complainant may, after filing, request a Right to Sue letter, skip the investigation, and immediately file a federal lawsuit

States that have laws similar to the federal system generally have similar processes. When the process ensues, it is important to notify your claims administrator and insurer immediately. Take even seemingly meritless claims seriously. Use professional advice and cooperate during the investigation, and do not engage in any actions that are or may be seen as retaliation.

Why Sedgwick?

Sedgwick can protect and defend your reputation. As the nation's largest third party administrator, we have the expertise and resources needed to partner with clients to deploy an all-inclusive plan for managing employment practice liability exposures. We are able to tailor the program to fit your needs, including customizable reports and a bordereau.

Throughout the life of a claim, we carefully scrutinize any written demands for relief and discovery, charges or complaints brought before administrative agencies, and contents of a summons and complaint or petition. Claims are monitored for punitive damages and we take steps with defense counsel to have these discontinued or dismissed, whenever possible. Our claims professionals handle disputes involving single and multiple claimants, filed in state or federal court, and appear in these jurisdictions routinely for mediation, trial and alternative dispute resolution.

Our claims specialists stay on top of changing employment laws. We collaborate with defense counsel to help formulate defensive strategy, using litigation management tools to steer claims toward successful resolution. We analyze the claim and the applicable policy, recommend a coverage position to the insurer and communicate with the insured, including denial of coverage and reservation of rights. We also help with risk management issues and loss control, to assist in minimizing future employment practice liability claims exposure. Sedgwick takes a proactive approach; we defend claims vigorously by conducting investigations early, while also balancing your practical business needs.

Industry expertise

Every claim referred to Sedgwick is assigned to a dedicated professional liability specialist with active and continuous supervisory review and involvement. These specialists, mostly prior defense attorneys, are accustomed to litigating in federal court and, likewise, are well-versed in state court rules and potential employment practice liability claims types for their assigned jurisdiction(s). We also ensure there are two sets of experienced eyes on each claim.

Handling these claims and suits requires extraordinary sensitivity and confidentiality to avoid secondary claims of retaliation and/or harassment, or creating claims from others or adversely affecting workplace morale. The investigations are generally quite intensive and involve discussions with many witnesses.

The exceptional service our professionals provide encompasses all aspects of claims management. We are mindful of the dynamic between clients, vendors, insureds, underwriters and brokers, and we pride ourselves on our responsiveness, providing updates and ongoing communications on each claim.

The Sedgwick difference

We provide an individualized program of services to meet your needs. Clients can have direct, 24/7 access to their claims through our leading-edge technology and proprietary systems. Our comprehensive solutions include:

- Claims administration services from inception through resolution
- Auditing services including operational, reserve analysis and pre-underwriting
- Administrative support services including loss run preparation and distribution, specialized reports per client request, bill processing and payments, carrier and other related reporting requirements, and data analytics and claim trending

To learn more about our employment practice liability claims solutions, contact:

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To learn more about our integrated and customized solutions, visit [SEDGWICK.COM](https://www.sedgwick.com)