

2025 Market Outlook

Employment Practices Liability Insurance

Following years of challenging market conditions and strict underwriting scrutiny, most employment practices liability (EPL) insurance buyers with good claims history enjoyed modest premium increases in 2024. Experts are cautiously predicting these trends will continue in 2025; however, several factors could contribute to market volatility. For example, the increased use of artificial intelligence (AI) in hiring scenarios could lead to more claims. Beyond AI concerns, the new Equal Employment Opportunity Commission (EEOC) guidance on workplace harassment, pay transparency considerations and the enforcement of the Pregnant Workers Fairness Act (PWFA) are expected to significantly influence the EPL insurance market in 2025. With stricter regulations and heightened scrutiny in these areas, employers could face increased risks of litigation and regulatory action, leading to a rise in EPL claims.

Developments and Trends to Watch

- **AI issues**—While AI systems can certainly offer various benefits to the businesses that use them, they may also pose EPL exposures. For instance, AI systems—although intended to provide impartial results—may contribute to discriminatory employment decisions if the algorithms and data sets entered within these systems are biased toward specific groups. Depending on how frequently AI technology is used, biased decisions could occur on a mass scale, presenting multiple avenues for discrimination-based litigation and associated EPL claims.
- **Workplace harassment**—On April 29, 2024, the EEOC published its final guidance on harassment in the workplace, which went into effect immediately upon issuance. The guidance, which hadn't been substantially updated in 25 years, explains how the EEOC may enforce equal employment opportunity (EEO) laws against an employer when workplace harassment is alleged or suspected. The EEO laws are a collection of federal laws prohibiting covered employers from discriminating against or harassing individuals based on certain characteristics. In particular, the new EEOC guidance includes a number of notable updates from previous guidance, including broadened sexual harassment definitions that include protections for LGBTQI+ workers, expanded protections for pregnancy-related conditions, expanded online harassment and remote work considerations, and clarified religious expression protections.
- **Expansion of pay transparency rules**—Pay transparency laws hope to address pay inequality and promote wage transparency by requiring employers to disclose compensation information and increasing employee access to salary data. These laws vary in their requirements but often require employers to post salary ranges in job postings or disclose salary information to existing employees and job applicants. The EEOC included equal pay initiatives in its SEP for 2024-28. Further, some states and municipalities are implementing pay transparency and wage discrimination legislation of their own.
- **Retaliation claims**—Retaliation in the workplace refers to the unlawful discrimination that occurs when an employer takes adverse action against an employee for engaging in a legally protected activity, such as filing a harassment claim or participating in a workplace investigation over alleged misconduct. Retaliation claims can be severe and damaging to a company's reputation and bottom line. They can also damage employee morale, reduce retention rates and decrease productivity. Moreover, retaliation claims are the most common type of discrimination charge filed by workers with the EEOC and similar state agencies. According to the most recent data from the EEOC, workers filed 46,047 charges of retaliation, representing 56.8% of all charges. What's more, in 2024 alone, the EEOC filed over 40 retaliation lawsuits under various statutes on behalf of employees. These statistics serve as a reminder to employers that they must continue to take the issue of retaliation seriously going into the new year.

Tips for Insurance Buyers

- Assess your employee handbook and related policies. Ensure you have all appropriate policies in place, including language on discrimination, harassment and retaliation.
- Implement effective sexual harassment prevention measures (e.g., a zero-tolerance policy and a sexual harassment awareness program), reporting methods and response protocols.
- Document all evaluations, employee complaints and situations that result in employee discipline or termination.
- Avoid retaliation claims by ensuring clear, consistent and documented procedures concerning employee feedback, complaint handling and terminations. It's also important to establish transparent policies, train managers regularly on how to handle complaints, and document performance reviews and complaints in a nonpunitive and objective manner.



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