

2022 Employment Practices Liability Insurance Market Outlook



Like many other lines of insurance, the employment practices liability (EPL) insurance market has hardened. This is due, in part, to a higher frequency and severity of claims in recent years, as well as increased legislative activity at both the state and federal levels. In 2022, the EPL rate environment is anticipated to improve slightly over 2021. Yet, it's predicted that most policyholders will still experience rate increases in 2022. Larger organizations and insureds operating within riskier states (e.g., California, Illinois, Florida, New York and Texas) or industries (e.g., health care, retail, hospitality and leisure) may encounter larger rate increases .

2022 Price Prediction

Overall:
+10% to +25%

Developments and Trends to Watch

- **Pandemic-related claims**—The COVID-19 pandemic has forced many employers to make workplace changes. With these changes, EPL claims followed. According to Fisher Phillips, nearly 4,000 pandemic-related lawsuits have been filed against employers. Some of the top pandemic-related EPL claims since the initial onset of COVID-19 include allegations regarding employee leave concerns, remote work options, discrimination related to workplace adjustments, retaliation, wage and hour issues, unsafe work conditions and vaccine mandates.
- **Social movements**—Various social movements may play a part in employment litigation and EPL claims in 2022. The #MeToo movement has empowered employees to call out inappropriate workplace conduct, which contributed to a 50% rise in sexual harassment lawsuits against employers in the last five years, according to the U.S. Equal Employment Opportunity Commission (EEOC). In addition, the Black Lives Matter movement may motivate employees to speak out against racial inequities on the job, potentially becoming a factor in race-related discrimination and harassment lawsuits. The U.S. Supreme Court also recently made it clear that Title VII protects gay and transgender employees from discrimination or harassment based on sexual orientation, gender identity and gender expression. LGBTQ employees may now feel more encouraged to hold employers accountable for unfair treatment through EPL claims.
- **Retaliation claims**—Retaliation is defined as an employer taking inappropriate actions against an employee for exercising their workplace rights. According to the EEOC, retaliation has repeatedly reigned as the top cause of employment litigation and EPL claims in the past few years. In fact, more than half of all employment charges filed with the EEOC involve retaliation. Therefore, employers who fail to react appropriately when workers utilize their employment rights could encounter increased retaliation-related EPL claims going forward.

Tips for Insurance Buyers

- Review 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, reporting and response measures.
- Document all evaluations, complaints and situations that result in employee termination.