



Franchisee Employment Practices Liability Insurance Important Responses to Frequently Asked Questions

1 Why does a Franchisee need Employment Practices Liability Insurance (EPLI)?

Recent studies show that the most significant increase in the type of claims against organizational management in recent years has been due to employment practices liability. In today's litigious environment, employers must be prepared to respond to allegations of discrimination, wrongful termination, retaliatory actions and harassment (both sexual, non-sexual including hostile work environment).

2 Isn't coverage for employment-related claims covered under a General Liability policy?

General Liability (GL) policies many not respond to various claims of employment discrimination, breach of contract and wrongful discharge. With increasing frequency GL policies now include wording, which specifically excludes all employment related liability claims by employees.

3 What developments in employment law have the most significant impact on my clients?

In dealing with employees, companies must comply with many federal, state and local regulations. Among the most significant:

- The Older Workers Benefit Protection Act of 1990
- The Age Discrimination in Employment Act of 1967
- The Civil Rights Act of 1964 (Title VII) as amended in 1991 *Makes jury trials available to all employees seeking recovery for workplace discrimination under federal laws*
- The Americans with Disabilities Act of 1990
Protects millions of Americans categorized as disabled against workplace discrimination
- The Family and Medical Leave Act of 1993.
- The 1993 Supreme Court ruling in the Theresa Harris Case *The court ruled that proof of psychological injuries was no longer necessary to win a harassment case.*
- Pregnancy Discrimination Act of 1978
- Equal Pay Act of 1963
- State and City Anti-Discrimination Laws *These laws can sometimes be even tougher on employers than federal law. Check your state and city discrimination laws.*

4 My client has instituted a variety of Human Resources policies and procedures. Why would they still need EPLI coverage?

Establishing a set of personnel policies and procedures is a good first step in mitigating a firm's exposure to employment-related liability, but it may not be enough. In a recent U. S. Supreme Court case (Faragher v. City of Boca Raton), it was decided that employers are responsible for the actions of their supervisors, even if the employer did not know or reasonably could not have known about the conduct.

Even the most vigilant employer is still not immune from allegations of wrongful employment acts. Firms must defend themselves against all claims, regardless of their validity. Recent studies have shown that legal fees incurred to respond to employment-related suits now average \$20,000 to \$25,000.

5 What risk management tools are available to help my client control their liability exposures?

All Rockwood EPLI Franchisee policyholders receive access to the HRCare Website which contains a legal guide, references, resources, chat room, self-audit and links to other sites. This web software helps your client establish strong clear employment policies and procedures, and is included with each policy at no cost. It also assists you in creating templates for anti-sexual harassment and anti-discrimination statements, and performance evaluations.

6 What is workplace harassment?

Many EPLI products available today only cover sexual harassment. The Franchisee EPLI policy available through Rockwood has broad coverage for both sexual and non-sexual harassment and including hostile work environment. "Workplace harassment" (i.e. harassment of a non-sexual nature) creates a work atmosphere that interferes with performance or creates an intimidating, hostile or offensive working environment.

7 What is duty-to-defend policy?

With duty to defend coverage, an insurance company is obligated to assume the defense of any covered claim. It uses experienced law firms to defend you within the limits of liability you purchase and, as part of its defense obligation, pays the associated expenses. The Franchisee EPLI policy available through Rockwood Programs, Inc. has a duty-to-defend, pay on behalf of coverage.

8 What is Third Party Liability?

The ability to sue a company for unlawful discrimination or harassment is not limited to employees. Individuals outside of the firm (clients, customers, vendors, etc) can initiate legal proceedings as a result of these actions. Most policies require that you purchase this coverage in the form of an endorsement. The Franchisee EPLI policy through Rockwood Programs, Inc., automatically includes the coverage in your premium.

9 What does "claims-made" mean?

The Franchisee EPLI policy available through Rockwood Programs, Inc is written on a claims-made basis. This means that it provides coverage for claims first brought against the insured and reported to the insurer during the policy period (subject to the applicable terms and conditions of the policy), regardless of when the alleged wrongful employment practice occurred.

10 Can the Franchisee EPLI policy available through Rockwood be endorsed to include defense outside the policy limit of liability?

Yes, Through the addition of an endorsement, legal expenses may no longer be applied against the policy's limit of liability. Coverage is subject to certain restrictions.

Have more questions?

Our knowledgeable staff of underwriters is available to assist you. Contact us toll-free at **800-558-8808**.