

Building a Cohesive Team Practical Employment Law Tips for Startups

Stephen Zarubaiko, Esq.

800 Turnpike Street, Suite 300

North Andover, MA 01845

Email: atty@zarubaikolawffice.com

Office Phone: 978-794-5550

Shortcuts Equal Problems for Startups

- Startups are resource poor.
- The Team is small and overstretched.
- Startups tend to skip basic formalities that are easy to implement.
- The Back Office-Boring and Routine functions trip up startups.
- These are not big expensive problems but can become company killers quickly.

1) Written Agreements

- Every Person or Company that is doing work for the Startup must have a written Agreement with the Company. Either an Employment Agreement or a Vendor Agreement.
- These are easy to create.
- Once you have created them don't change them.
- If someone doesn't want to sign your agreements then don't work with them.
- Don't write insane agreements with insane terms

2) Unpaid Internships

- No such thing as “Free” Or Unpaid Internships. The quickest way to get into really hot water is to Violate the Wage and Hour Rules. If your startup can't pay the minimum wage you have problems. Either figure out how to get the money to pay the person or do without.
- You will not enjoy dealing with the Government if you get caught. They will come after back wages, workmen's comp etc.
- The Government goes after small businesses on these issues all of the time.

3) Employee vs. Independent Contractor

- Presume that everyone involved with the business is an employee
And behave accordingly .
- In general the government and courts operate under this presumption. If companies like UBER and LYFT that have substantial amounts of financial backing are unable to successfully argue that the people in their business are independent contractors then what odds does your startup have to win on this point?

4) Payroll

- Startup must hire a competent Payroll Company.
- Compliance risks associated with payroll issues are much higher than most people realize. It is not just the issues of making sure that employees get paid. There are all sorts of other reporting issues that happen at the same time as the payroll is being paid. Payroll companies have the technical infrastructure set up to do this automatically. Your startup doesn't.
- Focus your attention on building the business of your startup. Non Core functions should be outsourced so that you can do this.

5) Sexual Harassment and EEOC Policies

- Your Startup needs to establish and implement written Sexual Harassment and EEOC Policies. This means that the startup needs to establish the reporting chain and process.
- This is a hyper sensitive area. Trying to invent things on the fly in this area will end badly. These issues can be business killers.
- If an event occurs you want to make sure that you have these policies in place and that you follow them.
- Just because the startup is small that doesn't offer any protection in this area.

6) Employment Contracts

- In your employment contracts you need to make sure that you cover certain issues.
- Invention Assignment and Confidentiality.
- Non Solicitation and Non Compete Issues.
- Most businesses consist of people, Intellectual Property and customers.
- You want to defend those assets and one way of doing that is through your employment contracts.

7) Separation Agreements

- Your startup needs to have and use Separation Agreements.
- One of the most dangerous times for a business is when employees are leaving the business. Separation Agreements are the book ends to your Employment Agreement.
- Your Startup needs to develop and use an Exit Interview process. This is more than just a formality. It can be an early warning indicator that there are problems in the business.

8) Immigration Issues

- Employees must be authorized to work in the US.
- I-9 and W-4 and W-9 Compliance are necessary.
- If the Employee is in a temporary status you have to be aware of the end dates and timelines. Examples of situations like this are Students on F-1 visas with Employment Authorization.
- If the Employee is not a US Citizen or Legal Permanent Resident you need to be thinking ahead to the next step of the process. Timelines, Associated Costs and the Requirements on the Business.

9) Social Media Policy

- Establish a Social Media Policy for your company and employees.
- Loose lips sink ships. On bad Tweet, Facebook post etc. can cost your company.
- Assign the Social Media responsibility within your company.
Remember that once a message has been sent it is out there in the universe. Be careful with the messages that are coming from your company.

Final Thoughts

- Most of the legal risks for Startup companies come from relatively boring back office and administrative functions.
- Standards, Process and Procedure. Establish, Rinse and Repeat.
- These issues don't go away as the company grows. Deal with them early so you don't have problems later.

Contact Information

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Business Law, International Business, Immigration Law