PRE-HIRING CHECKLIST

 Avoid questions that could related to a protected class. For example, a well-intended question about whether an applicant has children can create the basis for a number of claims. Similarly, asking an applicant about the origin of a surname could create the basis for a national origin or religious discrimination claim.

Never promise an applicant or current employee such things as permanent employment, job security, or employment for any “fixed” period of time. Such promises can alter an employee’s status as an “at-will” employee. Also, never include such promises in an employee handbook.

 Do not include elaborate statements in job offers or employee handbooks about termination “for cause only.” These can create an expectation of continued employment in the mind of the employee and can later make it more difficult for the employer to end the employment relationship if the employee does not commit one of the enumerated offenses listed as “for cause.” All offer letters should remind employees of their status as “at-will” employees.

The same is true with respect to progressive discipline policies. Such policies should always clearly establish that they are illustrative only, and that the company reserves the right to issue discipline as it sees fit on a case-by-case basis.

 Ensure that any statements made during the interview process accurately reflect the terms and conditions of employment for the position at issue. Avoid general comments about benefits or compensation that could be viewed as promises.

Upon hire, have new employees sign acknowledgments when they receive critical policy statements (e.g., confidentiality, drug and alcohol-free workplace, and anti-harassment policies) or other important documents.

 If you issue employee handbooks, have new employees sign a receipt acknowledging that they have been given a copy.