

# Door Dealer Accreditation

## Section 2

### Insurance and Legal



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1300 Sumner Avenue  
Cleveland, OH 44115-2851  
(216)241-7333  
(216)241-0105 FAX  
[dasma.com](http://dasma.com)



### ***International Door Association***

National Press Building  
529 14<sup>th</sup> Street NW, Suite 1280  
Washington, DC 20045  
(800) 355-4IDA (202) 591-2457  
[info@doors.org](mailto:info@doors.org)  
[doors.org](http://doors.org)



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# Introduction

All businesses face the possibility of accidental loss. Supervisors can play an essential role in enhancing profitability of a company by learning the practical applications of *risk management*. Risk management is the discipline that evaluates and addresses the risk each company faces.

Companies decide to assume certain risks and to avoid others. Risks can be reduced by a variety of loss prevention techniques. Risks can be contractually transferred to another company, or risks can be transferred to an insurance company. Regardless of the methods employed by a company to manage risk, the best outcome is achieved through the avoidance of loss.

Effective supervisory skills are a front line defense against accidental loss. Understanding the impact of losses on a company, even when those losses are insured, is a valuable skill. Furthermore, a solid understanding of insurance and legal issues can provide supervisors with a fresh perspective on quality business practices.

While insurance is just one technique for addressing loss, it is a very common technique. Insurance considerations affect the decision of many people within a business organization. This IDEA textbook is intended for non-insurance people who need to understand the basic insurance and legal terms and concepts. This will assist you in protecting the assets of your company. Remember, money spent by your company as a result of increased insurance premiums, uninsured losses, and other indirect costs, such as decreased productivity and downtime, is money that cannot be used for salaries, bonuses, employment benefits, new equipment, and other things that directly impact the quality of life for every employee.

Another way to protect your company is to be sure that you are in compliance with employment laws, and that you use only the best practices when it comes to dealing with fellow employees. The second part of this textbook covers a wide range of human resources policies and practices, workplace laws, and liability issues.

These are litigious times, particularly for businesses, and a thorough familiarity with employment and workplace laws is not only prudent, but may ultimately save your company. Combine your knowledge of these regulations with some effective, common sense approaches to dealing with personnel, and the impact to your company's bottom line can be as profound as that of effective sales and financial management.

## Section One

# General Liability Insurance

Insurance is a contract whereby, for a stipulated price, one party undertakes to compensate another for loss on a specified peril. This section briefly reviews some of the different types of insurance policies available to businesses.

## General Liability Insurance

General Liability Insurance is the foundational form of business liability coverage and is designed to protect a company against claims for bodily injury or property damage caused to others. While it is the most common liability policy, it does not cover every type of exposure; specialized risks such as automobile liability, aircraft liability, or professional malpractice require separate policies tailored to those hazards. A General Liability policy typically insures a company's legal responsibility for injuries to third parties and for damage to their property. Policy forms vary in scope, with some limited to liability arising from ownership or occupancy of a business premises, while others provide broader protection that includes operations, products, and completed work.

The most widely used version is the Commercial General Liability (CGL) policy, which combines several categories of liability coverage into a single contract. The CGL begins with a broad insuring agreement and then narrows the scope of coverage through its exclusions, definitions, and conditions. This structure is similar to the way an all-risk property policy functions, in that coverage is defined largely by what is not excluded. Because of this, understanding the policy's limitations is just as important as understanding what it covers.

Accurate identification of the *Named Insured* is essential, as the policy must list the correct legal entity along with any subsidiaries that need protection. When multiple names appear, the first named insured holds specific rights and responsibilities, including the authority to make policy changes, receive cancellation notices, and handle premium payments on behalf of all insured parties. The order of these names matters and can affect how coverage applies.

The *Policy Territory* section defines where coverage applies. Standard CGL policies are intended for operations within the United States, its territories, Puerto Rico, and Canada, though they often include limited worldwide coverage for incidental exposures such as temporary travel or products manufactured domestically but causing injury abroad. If a company conducts business or performs installations outside these areas, the owner should discuss foreign liability coverage with their insurance agent to ensure adequate protection.

## Common Commercial General Liabilities (CGL) Coverages

Common Commercial General Liability (CGL) coverages address the primary ways a business can become legally responsible for injury or damage to others.

*Premises and Operations* coverage applies to liability arising from your physical location or from work in progress, whether performed on your premises or at a customer's site.

*Products and Completed Operations* protects your business if injury or property damage occurs because of a product you sold or work

you have finished, an essential protection for any dealer performing installations.

*Personal Injury* coverage is for unintentional offenses such as libel, slander, false arrest, or wrongful entry.

*Advertising Injury* covers unintentional violations like copyright or trademark infringement that occur in your company's advertising.

*Independent Contractors.* CGL policies typically extend to Independent Contractors, covering your liability for bodily injury or property damage caused by work performed on your behalf, though the contractor themselves is not insured and must carry their own coverage.

*Contractual Liability* provides protection for certain obligations your business assumes under a contract, such as indemnifying a customer for bodily injury or property damage.

*Host Liquor Liability* applies when your business serves alcohol at a company event and becomes legally responsible for resulting injuries or damage.

*Medical Payments* pays medical expenses for non-employees injured on your premises without requiring proof of legal liability - often functioning as a goodwill measure to prevent disputes.

*Fire Damage Legal Liability* covers your responsibility for fire damage to premises you rent or occupy.

*Non-Owned Watercraft Liability* protects your company if a non-owned boat, typically under a specified length such as 26 feet, is used for business purposes and causes injury or damage; this coverage applies to your business but not to the watercraft's owner.

## Common CGL Exclusions

Common exclusions in a Commercial General Liability (CGL) policy identify situations the policy does not insure, helping define the limits of coverage and the areas where separate insurance is required.

A standard exclusion is for injury or damage that is *expected or intended* by the insured, since the CGL is designed to cover accidental events rather than deliberate acts.

The policy also excludes most *contractually assumed liability*, except for specific types of contracts the policy recognizes or when the liability would exist even without the contract. Because these provisions can significantly affect a dealer's risk, they must be reviewed carefully.

*Employee bodily injury*, along with related claims by family members, is excluded because these losses fall under Workers' Compensation coverage rather than General Liability.

Most CGL policies contain a broad *pollution exclusion*, removing coverage for injury or damage caused by the release or escape of pollutants. Businesses needing protection for environmental exposures must obtain specialized Environmental Impairment Liability coverage.

Liability arising from the *use of automobiles, aircraft, or watercraft* is also excluded, requiring separate policies for those exposures, with the limited exception of certain non-owned watercraft.

The policy excludes *property damage to property you own, occupy, or control*, since damage to your own property is handled by property insurance rather than liability insurance. Fire Damage Legal Liability is a narrow exception that applies to rented premises.

Claims involving the *quality of your work or products* are excluded as well. While the CGL covers injury or damage caused by faulty work, it does not pay to repair or replace the defective work itself, nor does it cover design errors, product recall costs, or the loss of a product's usefulness.

Many policies also include exclusions for *professional errors or omissions*, reflecting that professional liability requires its own coverage.

*Additional exclusions*, such as those related to asbestos, silica, mold, communicable diseases, or electronic data, are frequently added to modern policies, further limiting coverage for certain high-risk or emerging exposures.

## Policy Limits

A CGL policy includes several different limits that define how much the insurer will pay for various types of claims during the policy period.

The *Each Occurrence* limit is the maximum amount the insurer will pay for all damages arising from a single accident or event, regardless of how many people are injured or how much property is damaged.

The *General Aggregate* limit is the total amount available for all claims during the policy year, except those that fall under the Products–Completed Operations hazard. Claims involving premises liability, ongoing operations, personal and advertising injury, medical payments, and Fire Damage Legal Liability all draw from this General Aggregate.

The *Products–Completed Operations Aggregate* is a separate annual limit dedicated to claims arising from your products or completed work - an important distinction for contractors and installers, since these claims often occur long after the work is finished. Certain coverages within the CGL have their own specific sub-limits.

*Medical Payments* coverage typically has a modest limit, often around \$5,000, and pays for minor injuries to non-employees without requiring proof of legal liability.

*Damage to Premises Rented to You* (formerly called Fire Damage Legal Liability) usually carries its own limit as well, commonly around \$50,000, and applies when you are legally responsible for fire damage to premises you rent or temporarily occupy. These sub-limits are part of, and do not increase, the General Aggregate limit.

## CGL Rating

CGL premiums are typically calculated using exposure bases such as sales, payroll, or a combination of both, depending on the type of business and the specific classification assigned by the insurer. At the start of the policy term, the business provides estimated figures for these exposures, and the initial premium is calculated from those estimates. Because these numbers often change during the year, the insurer conducts an audit at the end of the policy period to determine the actual sales or payroll. The premium is then adjusted upward or downward to reflect the true exposure, and any additional premium owed or return premium due is settled at that time.

Many policies include a minimum premium, meaning the premium cannot be reduced below a certain amount even if actual exposures come in lower than estimated. Some classifications may also include rate modifiers, such as experience factors or schedule credits, which adjust the final premium based on loss history or underwriting judgment.

## Deductibles

Deductibles are uncommon in standard CGL policies because liability claims require the insurer's involvement from the very beginning,

including investigation, defense, and settlement. For that reason, many small and mid-sized businesses carry CGL coverage without a deductible so the insurer can assume immediate control of the claim.

Larger companies, however, often use a deductible or a self-insured retention (SIR) to reduce premium costs and take on a portion of the financial risk themselves. A deductible requires the insurer to handle the claim from the outset, with the insured reimbursing the deductible amount. A self-insured retention functions differently: the insured must pay and manage the initial layer of loss before the insurer's obligations begin. Both approaches shift some cost back to the business, but they also require stronger internal risk management practices and the financial capacity to absorb early losses.

## Independent Contractors

Independent contractors can create significant liability exposure if their insurance is not properly verified, so obtaining *certificates of insurance* from every contractor you hire is a critical part of managing your CGL program. A certificate confirms that the contractor carries their own General Liability and Workers' Compensation coverage, helping ensure that any injury or property damage they cause is not charged to your policy. When a contractor lacks adequate insurance, losses arising from their work may be treated as your own, which can increase premiums at audit or renewal.

Certificates should show the minimum limits and coverage types required by your insurer, along with accurate effective dates and any endorsements required by contract or underwriting, such as Additional Insured status or a Waiver of Subrogation. Reviewing certificates carefully and keeping them current helps prevent gaps that could shift liability back onto your business.

In addition to independent contractors hired directly by your company, many CGL policies

include specific conditions for subcontractors - independent contractors hired to perform part of a larger job. Policies may limit or exclude coverage for subcontractor work unless certain requirements are met, such as the subcontractor carrying their own liability insurance, naming your business as an Additional Insured, or providing a Waiver of Subrogation. Failure to meet these conditions can result in denied claims or increased premiums.

Maintaining a consistent, documented process for collecting, verifying, and tracking certificates of insurance helps protect your business from contractor related losses and supports stable, predictable insurance costs.

## Occurrence Basis vs. Claims Made Basis

Occurrence-based and claims-made liability policies differ in how they determine which policy responds to a loss, and understanding that distinction is essential for any business that installs or services products. Most Commercial General Liability (CGL) policies are written on an *occurrence basis*, meaning the policy that was in force when the incident actually happened is the one that responds, even if the claim or lawsuit is filed years later. For example, if an installation performed two years ago allegedly caused an injury today, the CGL policy active at the time of the installation would be triggered.

Some industries or higher-risk products are insured on a *claims-made basis*, where coverage is tied to when the claim is made, not when the underlying event occurred. Under a claims-made policy, the policy in effect at the time the claim is reported is the one that responds, provided the incident occurred after the policy's retroactive date. The retroactive date is a critical feature: any incident that took place before that date is excluded, even if the claim is filed during the policy period. Claims-made policies also include strict

reporting requirements, making timely notice essential. Most Professional Liability and Errors & Omissions policies use this format because they insure losses that may not become known until long after the work is performed.

To address the gap that can occur when a claims-made policy ends, insurers may offer an *Extended Reporting Period (ERP)* or *Extended Discovery Period*, which allows additional time to report claims arising from incidents that occurred during the policy term. This extension does not provide new coverage for new incidents; it simply lengthens the window for reporting claims tied to past work. Because the choice between occurrence and claims-made coverage affects long-tail liability (losses that occur today but are not discovered, reported, or claimed until months or years later), retroactive protection, and future insurability, business owners should review these differences carefully with their insurance agent or broker.

## Additional Coverage Considerations

**Additional Insured Status:** Many commercial contracts require a business to extend its liability protection to another party by adding them as an Additional Insured. When this endorsement is in place, your CGL policy may defend and indemnify that party for claims arising out of your work. This affects how claims are handled, how limits are shared, and who receives legal defense. For garage door dealers, this requirement is common on commercial installations, tenant-fit-out projects, and work performed for general contractors or property managers. Because Additional Insured status can significantly increase your exposure, insurers often review these requests carefully and may charge additional premium.

### Primary and Noncontributory

**Requirements:** Contracts may also require your liability coverage to apply on a primary and noncontributory basis. This means your policy must respond first to a covered claim,

without seeking contribution from the other party's insurance. This shifts more responsibility onto your CGL policy and can influence both pricing and underwriting. Dealers should understand when this language applies and ensure the endorsement is properly added when required by contract.

**Waiver of Subrogation:** A Waiver of Subrogation prevents your insurer from pursuing recovery from another party who may have contributed to a loss. Many commercial clients require this waiver to avoid disputes between insurers after a claim. While it can help maintain business relationships, it also limits your insurer's ability to recover costs and may result in higher premiums. Certificates of insurance should clearly show when this waiver is in place.

**Defense Costs and the Duty to Defend:** One of the most valuable features of a CGL policy is the insurer's duty to defend, which requires the insurer to provide and pay for legal defense when a covered claim is made. Defense costs are typically outside the policy limits, meaning they do not reduce the amount available to pay damages. The insurer selects and manages the defense counsel, controls litigation strategy, and determines when to settle. This structure is a major reason deductibles are uncommon in standard CGL policies, as insurers must be involved from the outset of any claim.

### “Your Work” and “Your Product”

**Exclusions:** CGL policies distinguish between damage caused by faulty work and the cost to repair the faulty work itself. The policy covers resulting injury or property damage caused by your work or product, but it does not pay to correct defective workmanship, replace faulty materials, or redesign a product. For garage door dealers, this means the policy may cover damage caused by an improperly installed operator, but it will not pay to reinstall the operator correctly. Understanding this distinction helps clarify why completed operations coverage is essential.

**Insured Contracts and Contractual Liability:**

Contractual liability coverage applies only to certain types of agreements defined as insured contracts. These include leases, easement agreements, elevator maintenance agreements, sidetrack agreements, and contracts where you assume another party's tort liability for bodily injury or property damage. Because many dealer contracts include indemnification clauses, it is important to understand which obligations are covered and which may fall outside the policy.

**Classification and Audit Considerations:**

Insurers assign each business a classification code that determines how the CGL premium is calculated. Garage door dealers are typically classified as contractors performing installation and service work. If a business performs additional operations, such as manufacturing, welding, or structural modifications, those activities may require separate classifications. Misclassification can lead to incorrect premiums, audit disputes, or coverage gaps. Maintaining accurate records of payroll, subcontractor costs, and sales helps ensure proper rating.

**Claims Notice and Reporting Requirements:**

CGL policies require prompt notice of incidents, potential claims, and lawsuits. Even if a customer has not yet filed a claim, any event that could reasonably lead to one should be reported. Late reporting can complicate the insurer's ability to investigate and may jeopardize coverage. This is especially important for claims that arise long after the work is completed, as timely notice helps preserve evidence and witness accounts.

**Endorsements That Restrict Coverage:**

Beyond standard exclusions, insurers may add endorsements that limit coverage for specific

operations or exposures. Common examples include restrictions on residential work, exclusions for subcontractor operations, limitations on work involving certain equipment, or exclusions for specific products. Dealers should review endorsements carefully to ensure they do not unintentionally remove coverage needed for routine operations.

**Separation of Insureds:** The Separation of Insureds condition ensures that each insured under the policy is treated independently. A claim involving one insured does not automatically bar coverage for another, and exclusions apply separately to each insured. This provision is especially important when multiple entities, subsidiaries, or Additional Insureds are listed on the policy.

**Aggregate Limit Management:** Some insurers offer options to reinstate or buy back aggregate limits if they are exhausted during the policy year. This can be valuable for businesses with higher exposure or multiple ongoing projects. Understanding how claims erode aggregate limits helps businesses plan for adequate protection throughout the year.

**Products and Completed Operations for Installers:** For garage door dealers, the majority of liability exposure arises from completed installations and products sold or serviced. Injuries or damage may occur months or years after the work is finished, making completed operations coverage essential. Claims may involve shared responsibility between the dealer and the manufacturer, and insurers may pursue subrogation when a defective component contributes to the loss.

## Section Two

# Property Insurance

Property insurance most commonly protects against direct physical damage to a building and to the furniture, equipment, and other contents inside it. Businesses that rent or lease their premises typically insure only their contents, but policies can be modified to cover tenant improvements and betterments such as interior walls, shelving, counters, and other permanent additions made at the tenant's expense. Several additional considerations affect how property coverage applies.

*Ownership.* Property insurance covers the property of the named insured, meaning the entity listed on the policy. Any change in ownership requires a corresponding change to the policy to maintain proper coverage. If your business has custody of property belonging to others, such as items being repaired, stored, or processed, the policy must be amended to reflect this responsibility. Specialized coverage may be required for certain types of customers' property.

*Location.* Standard property policies insure property at specific, listed locations. All buildings, offices, warehouses, and storage sites should be accurately scheduled on the policy. If your business owns property that moves from place to place, such as contractor's tools, portable equipment, or materials, coverage must be extended to reflect this mobility. Policies can also be adjusted to insure property in transit or property at *unnamed* or temporary locations, depending on operational needs.

*Perils.* A peril is the cause of loss, such as fire, windstorm, or theft. Property insurance may be written on a *Named Perils* basis, covering only the causes of loss specifically listed in the policy. More commonly, policies use an *All Risk* or *Special Form* format, which covers all causes of direct physical loss except those specifically excluded. This broader approach

provides more comprehensive protection but still requires careful review of exclusions and limitations.

*Exclusions.* All property policies contain exclusions that remove coverage for certain perils or types of property. Some exclusions exist because the exposure is better handled by a specialized policy. For example, flood, earthquake, or boiler and machinery breakdown. Others are excluded because insurers consider the exposure uninsurable or outside the intent of standard property coverage. Reviewing the exclusions section helps ensure that any significant gaps are addressed through endorsements or separate policies.

*Property Excluded.* Property policies do not insure every type of property, and many items are either excluded entirely or covered only on a very limited basis. Common examples include accounts, bills, money, deeds, evidence of debt, fine arts, jewelry, precious stones, precious metals, animals, land, crops, and plants. These items require separate coverage or specialized policy forms if protection is needed.

*Perils Excluded.* Property policies also exclude certain causes of loss. Some exclusions apply because the loss is considered a normal business expense, such as wear and tear, deterioration, or settling and cracking of foundations. Other exclusions exist because the exposure is better handled by a different type of insurance. Boiler and Machinery (Equipment Breakdown) coverage and Crime Insurance are common examples of separate policies designed to insure perils excluded under standard property forms. Many exclusions can be modified or removed through endorsements, depending on the insurer and the nature of the risk.

*Newly Acquired Property.* Most property policies provide automatic, temporary coverage for newly acquired buildings and contents, subject to a specified limit. This protection applies only for a limited number of days, after which the acquisition must be reported to the insurer to continue coverage. Prompt reporting ensures that the new property is properly scheduled and insured for its full value.

*Valuation.* Property can be insured on either a Replacement Cost or Actual Cash Value basis. Replacement Cost coverage pays the cost to repair or replace damaged property with new property of like kind and quality, without deduction for depreciation. Actual Cash Value coverage applies depreciation to reflect the age and condition of the property at the time of loss. Most businesses prefer Replacement Cost because it provides a more complete recovery, but Actual Cash Value may be appropriate for older property that would not be fully repaired or replaced after a major loss.

*Coinsurance.* Most property policies include a Coinsurance requirement, which obligates the insured to carry an amount of insurance equal to a specified percentage, typically 80% or 90%, of the property's Replacement Cost or Actual Cash Value, depending on the valuation basis chosen. This requirement prevents underinsurance and ensures that the policy limit reflects the true value of the property. If the amount of insurance carried is less than the amount required, the insured becomes a coinsurer and shares in the loss. In practical terms, the insurer will pay only a portion of the loss, and the penalty can be substantial when the property is significantly underinsured.

*Agreed Value (Amount).* Some insurers offer an Agreed Amount or Agreed Value endorsement, which suspends the Coinsurance requirement for the policy term. Under this endorsement, the insurer accepts a specified amount of insurance as adequate, reducing the likelihood of disputes after a loss about whether the property was insured to the proper value. This option is often worthwhile for businesses that want to avoid Coinsurance

penalties and ensure predictable claim settlements.

*Amount of Insurance.* Carrying an adequate amount of insurance is essential to protecting your business. The policy limit should be sufficient to restore your property after a loss, but insurers do not determine this amount for you. Establishing accurate values is the responsibility of the insured, and several methods can be used to determine the appropriate limit.

Professional appraisal services can provide a detailed valuation, and their work should focus on *Replacement Cost*, not *Market Value*. Market Value reflects what the property might sell for, which can differ significantly from the cost to rebuild. Some businesses update original construction costs using inflation trending factors, while others consult local contractors who can provide current cost-per-square-foot estimates for similar construction. Contents such as furniture, office equipment, and machinery can be valued using current catalogs, vendor pricing, or supplier quotes. *Book value* is generally not appropriate because it reflects depreciation rather than the cost to replace the item today.

Businesses with inventories that fluctuate significantly throughout the year may be required to report values monthly to ensure accurate coverage and premium calculation.

*Reviewing and Updating Values.* Property values should be reviewed annually to ensure that limits keep pace with rising construction costs and newly acquired assets. Coverage for new buildings, equipment, or improvements should be evaluated as soon as they are added. Many insurers offer an *inflation guard* endorsement, which automatically increases the policy limit during the year to reflect inflation. This helps maintain adequate coverage without requiring constant manual adjustments.

## Other Property Insurance Options

Standard property insurance forms do not automatically include several important coverages. These protections can be added by endorsement, and in some cases require a separate policy. The following options help businesses recover from losses that affect operations, not just physical property.

### Business Income

Business Income coverage includes *Business Interruption* and *Extra Expense* protection. These coverages may be written together or separately, depending on the needs of the business.

*Business Interruption* coverage insures lost profits and continuing expenses during a shutdown caused by a covered property loss. This protection is essential because many businesses could lose income for months if their premises were seriously damaged. Coverage can also be extended to include loss of rental income from damaged rental property. Business Interruption forms typically include a Coinsurance requirement.

Salaries of key employees are usually covered because these individuals are needed to restore operations. Coverage for ordinary payroll, such as factory or hourly workers, is also available. Keeping employees on payroll during a prolonged shutdown can be critical, as workers may seek other employment if not retained.

*Contingent Business Interruption (Dependent Properties)* covers income loss resulting from a property loss at the premises of a major customer, supplier, or other dependent property. For example, a manufacturer may be forced to suspend operations if a supplier's plant is damaged and critical components become unavailable. Businesses that rely heavily on a small number of customers or suppliers, or that depend on the continued

operation of a local attraction, should consider this coverage.

*Extra Expense* coverage insures the additional costs a business incurs to remain in operation after a covered property loss. Examples include the cost of establishing temporary quarters, renting equipment, or subcontracting work that would normally be performed at the damaged premises. This coverage is especially important for businesses that must continue operating to retain customers. Extra Expense coverage often includes monthly limitations, such as 40% of the limit available in the first 30 days, 80% if the restoration period exceeds 30 days, and 100% if it exceeds 60 days.

### Boiler and Machinery Insurance

Boiler and Machinery insurance is an important but often overlooked form of protection. Many insurers now refer to it as *Equipment Breakdown* or *Energy Systems* coverage to emphasize that it applies to far more than boilers. For manufacturing firms and businesses in the door and operator industry, this coverage can be especially valuable because it insures types of losses that standard property policies exclude.

Boiler and Machinery policies provide coverage for damage to, and caused by, steam boilers and pressure vessels, but they also extend to other critical equipment. Key covered causes of loss include:

- Electrical Injury – damage caused by artificially generated electrical current, such as arcing or power surges.
- Mechanical Breakdown – sudden breakage, rupture, or failure of machinery or equipment.

Examples of losses that may be covered include:

- A door dealer's operator repair operation shuts down due to an electrical backfeed, damaging motors and other components.
- A machine operator makes an error, causing expensive equipment to break and halting production.
- A short circuit in an electrical switch causes a power loss, interrupting operations.

The financial impact of an equipment breakdown often extends beyond the cost to repair the damaged machinery. Boiler and Machinery policies can be expanded to include Business Interruption, Extra Expense, Utility Service Interruption, and Consequential Damage coverage, such as spoilage caused by loss of heat or refrigeration. These additions help protect the business from the broader operational disruptions that follow a major equipment failure.

When evaluating the need for Boiler and Machinery coverage, businesses should consider several key questions:

- 1) What is the value of essential equipment, such as HVAC systems, electrical panels, boilers, or production machinery? And what would it cost to repair or replace it?
- 2) How would the business be affected if this equipment was lost or out of service?
- 3) How long would repairs take? Is replacement equipment readily available, and are critical spare parts kept on hand?

Boiler and Machinery specialists can help identify additional considerations, and supervisors familiar with day-to-day operations can provide insight into which equipment is most critical. This information is an important part of designing an insurance program that protects the business and its employees from the consequences of unexpected equipment failures.

## Crime Coverages

Standard property policies exclude the loss of money and often restrict coverage for employee dishonesty. Crime insurance provides a package of specialized coverages designed to protect a business from financial losses caused by theft, fraud, and other dishonest acts. These coverages are important for any business that handles cash, securities, or sensitive financial transactions.

*Employee Dishonesty (also known as Commercial Blanket Bond).* Employee Dishonesty coverage protects against the theft of money, securities, or inventory by employees acting alone or in collusion with others. Losses of this type often occur over an extended period and may be substantial before they are discovered.

The Employee Retirement Income Security Act (ERISA) requires an Employee Dishonesty bond for employee benefit plans. The bond limit must equal 10% of the plan's assets, with a minimum limit of \$1,000 and a maximum of \$500,000 per fiduciary, per plan. Many companies purchase higher limits to provide more complete protection for larger plans.

*Theft of Money Inside or Outside the Premises.* These coverages insure against the theft of money either inside the business premises or outside the premises while in the custody of a messenger or armored car service. Businesses that accumulate or transport cash should consider these protections. Coverage can also be extended to include certain types of property beyond money.

*Forgery or Alteration* coverage protects against losses resulting from the forgery or unauthorized alteration of checks, drafts, or similar financial instruments issued by the business. This coverage helps safeguard against fraudulent withdrawals or payments.

*Computer Fraud.* Computer Fraud coverage insures against the loss of money or property resulting from unauthorized access to the

company's computer system by an outside party. This includes fraudulent electronic transfers or manipulation of data that leads to financial loss.

**Credit Card Forgery.** This coverage protects the business from losses caused by the unauthorized use of the company's credit cards. It is particularly relevant for businesses that issue cards to employees or maintain corporate purchasing accounts.

A variety of additional crime coverages are available, depending on the nature of the business and its exposure to financial loss. These may include funds transfer fraud, counterfeit currency, or social engineering fraud, among others.

## Valuable Papers

The Valuable Papers endorsement provides coverage for the additional costs to research, replace, or restore important documents, drawings, and records that are damaged in a covered loss. This protection is especially important for businesses that rely on unique or hard-to-reproduce documents, such as technical drawings, contracts, customer files, or historical records. While the physical paper itself may have limited value, the cost to reconstruct the information can be substantial, making this endorsement an important consideration.

## Electronic Data Processing Equipment

Electronic Data Processing (EDP) coverage extends protection to computer hardware, software, and data, addressing exposures that standard property policies often limit or exclude. This endorsement can include coverage for mechanical breakdown of computer equipment, as well as the cost to restore or recreate damaged data or media. Business Income and Extra Expense coverage can also be added to protect against operational disruptions caused by computer

system failures. For businesses that rely heavily on technology, EDP coverage is an essential component of a complete property insurance program.

## Pollutant Cleanup

Many property policies provide only limited coverage for the cleanup and removal of pollutants released during a covered property loss. For example, chemicals stored on the premises may be spread by water used to extinguish a fire, creating a costly cleanup obligation. Businesses with exposure to chemicals, fuels, or other regulated materials should review available options for higher limits or broader coverage. Ensuring adequate pollutant cleanup protection helps prevent unexpected expenses following a loss.

## Builders Risk Coverage

These are policies specifically designed to insure buildings and structures, such as bridges, in the course of construction.

## Floater/Inland Marine

Standard property policies insure property only at the specific locations listed in the policy. When property moves from place to place or is frequently used off premises, coverage must be extended through a Floater endorsement or an Inland Marine policy. These forms are designed to insure mobile or high value items that are not confined to a single location.

Common examples include exhibits, contractor's equipment, and employee tools. Inland Marine coverage is also used for large, mobile equipment such as cranes. For instance, a mobile crane mounted on a truck licensed for public highways can be scheduled on an Inland Marine policy to insure the value of the crane itself, while the truck's value and liability coverage remain on the business auto policy. This separation ensures that each

component is insured under the policy best suited to its exposure.

### **Transit/Cargo**

Transit or Cargo coverage insures property in transit, protecting your company's shipments while they are being transported. Bills of lading issued by common carriers often limit the carrier's responsibility for loss or damage, which can leave significant gaps in protection. Carrying your own Transit or Cargo insurance ensures that shipments are properly covered and can also expedite reimbursement after a loss, since you are not dependent on the carrier's claims process.

### **Equipment Rental**

Equipment Rental coverage insures rented or leased equipment against damage or theft while in your possession. Without this coverage, your company is responsible for the full value of the equipment if it is damaged or stolen. Protection can be added to your property policy or purchased directly from the rental provider, depending on cost and availability.

### **Accounts Receivable**

Accounts Receivable coverage protects against the inability to collect amounts owed to your company when the supporting records are damaged in a covered property loss. This coverage reimburses the cost of reconstructing billing information and the resulting uncollectible amounts that arise solely because the records were destroyed. It does not cover uncollected accounts due to a customer's inability or unwillingness to pay.

### **Property of Others in Your Care**

Businesses that take possession of customer property, such as operators, remotes, or

hardware brought in for repair, may need coverage for property of others. Standard property policies do not always insure these items unless they are specifically scheduled or endorsed. Coverage can be written on a limited or full value basis, depending on the nature of the work and the value of items in your custody. This protection is especially important for repair shops and service centers that routinely handle customer equipment.

### **Installation Floater**

An Installation Floater covers materials, equipment, and supplies from the time they leave your premises until installation is complete and accepted by the customer. This includes items stored at job sites, staged for installation, or partially installed. Losses from theft, vandalism, weather, or accidental damage are typically covered. Because door dealers frequently transport and install high value materials, this is one of the most important optional coverages to consider.

### **Tools and Equipment Coverage**

Tools and equipment used by installers and service technicians may not be fully covered under a standard property policy, especially when they are kept in vehicles or used off premises. Tools and Equipment coverage insures portable tools, power equipment, diagnostic devices, and similar items against theft or damage. Coverage can also be extended to include employee owned tools, which are often excluded unless specifically endorsed. This protection can be essential for maintaining operations after a loss.

### **Business Personal Property Off-Premises**

Many property policies limit coverage for business personal property located away from the insured premises, such as inventory stored in vehicles, temporary storage units, or job sites. Dealers who carry significant materials

on service trucks, or stage items at customer locations, may need higher limits or broadened coverage. This ensures that property remains protected regardless of where it is temporarily stored or used.

### **Ordinance or Law**

When repairing or rebuilding a damaged building, local building codes may require upgrades that increase construction costs. Standard property policies do not automatically cover these additional expenses. Ordinance or Law coverage insures the cost to demolish undamaged portions, the increased cost of construction, and the loss of value caused by code enforcement. This coverage is particularly important for older facilities that may not meet current building standards.

### **Utility Services – Direct Damage and Time Element**

Losses caused by the failure of off premises utilities such as power, water, or communication lines are often excluded unless specifically endorsed. Utility Services coverage can insure direct damage to property caused by utility failure and time element losses, such as Business Income or Extra Expense. Dealers with manufacturing operations, automated equipment, or temperature sensitive materials may benefit from this protection.

### **Peak Season Coverage**

Businesses with seasonal fluctuations in inventory may benefit from Peak Season coverage, which automatically increases limits during periods of higher value. This ensures adequate protection when inventory levels rise, such as during construction booms or seasonal demand cycles.

### **Cyber and Data Breach Coverage**

Many dealers rely on electronic scheduling, customer databases, remote access systems, and electronic payment processing. Cyber and Data Breach coverage protects against losses caused by data breaches, ransomware, fraudulent transfers, and business interruption resulting from cyber events. As operations become more digital, this coverage is increasingly important.

### **Evaluating Additional Property Coverages**

The endorsements and policies described throughout this section represent only a portion of the options available to address a door dealer's property insurance needs. It is important for supervisors and managers to understand that insurance cannot eliminate exposure to loss, and not every exposure warrants the purchase of a policy. Losses that are minimal in value or highly unlikely may be intentionally self-insured by the company. In other words, it is possible to purchase more insurance than is necessary.

Experienced installers and supervisors are in an excellent position to help owners evaluate operational risks. While the responsibility for selecting policy forms and negotiating insurance contracts typically rests with the owner, working with an insurance agent or broker, the quality of the insurance program depends on having timely, accurate information about exposures and the potential impact of a loss. Supervisors who understand how insurance relates to daily operations can contribute meaningfully to the long term profitability and stability of a door and access systems dealer.

## Section Three

# Automobile Insurance

Business Automobile policies insure your company's liability for bodily injury and property damage arising out of the use of covered vehicles. These policies can also insure damage to your own autos and provide several additional protections. Because the common phrase *Full Coverage* can mean many different things, it is important to understand which coverages apply to your vehicles and how each one affects your protection.

## Who is Insured?

The Declarations page must correctly identify your company as the *Named Insured*. Within the policy, coverage generally extends to anyone using a covered vehicle with the owner's permission. Drivers with poor motor vehicle records may be excluded by the insurer, so it is wise to obtain motor vehicle reports and restrict high-risk drivers from operating company vehicles. Doing so helps protect both your insurance program and your property.

## Coverages

The Declarations page will indicate which of the following coverages apply to your policy:

*Liability*. Covers your company's legal responsibility for bodily injury and property damage caused to others. Injuries to your own employees are excluded because they should be covered under Workers' Compensation insurance.

*Physical Damage*. Covers damage to your company's vehicles.

- *Collision* insures damage caused by collision or overturn.

- *Comprehensive* insures other types of loss such as fire, theft, vandalism, or falling objects.

*Uninsured Motorists*. Provides protection if you are injured in an accident caused by a driver who does not carry liability insurance.

*No Fault Coverages*. In states with No-Fault laws, certain injury benefits are paid under your own policy regardless of who caused the accident. The scope of these benefits varies significantly by state, and litigation still occurs in many No-Fault jurisdictions.

*Medical Payments*. Provides a modest amount of coverage for medical expenses of passengers injured while riding in your company vehicle.

## Limits

Most Business Automobile policies provide a *Combined Single Limit (CSL)* for bodily injury and property damage liability arising from a single accident. This single limit simplifies coverage by applying one amount to all liability claims from the same occurrence. Other coverages, such as Medical Payments, Uninsured Motorists, and Physical Damage, are typically subject to their own separate limits as shown on the Declarations page.

## Deductibles

Liability coverages are generally written without a deductible because liability claims require immediate insurer involvement and defense. Larger companies, however, may choose to assume a substantial liability deductible or self-insured retention to reduce premium costs and retain more control over smaller losses.

Physical Damage coverages, Comprehensive and Collision, are subject to deductibles. Businesses may request quotes for multiple deductible levels to evaluate potential cost savings. Companies with large fleets sometimes self-insure all damage to their own vehicles, but this approach requires careful consideration. A single event, such as a fire or severe weather, can damage multiple vehicles at once, creating a significant uninsured loss if adequate reserves are not maintained.

## Covered Autos

Business Automobile policies use *numerical symbols* on the Declarations page to indicate which vehicles are covered for each type of insurance. These symbols determine the scope of protection.

- **Symbol 1, Any Auto** - This is the broadest option and is preferable for Liability coverage because it applies to any auto your business uses, be it owned, hired, or non-owned.
- **Symbol 7, Specifically Described Autos** - Liability applies only to vehicles listed on the policy. If Symbol 7 is used, you should also have:
  - **Symbol 8, Hired Autos**
  - **Symbol 9, Non-Owned Autos**

These symbols extend liability coverage to vehicles your employees rent or personally own while using them on company business.

Even businesses that *do not own any vehicles* should carry *Hired and Non-Owned Auto Liability* to protect against liability arising from employees using personal or rental vehicles for company purposes. This coverage can often be added to a General Liability policy at minimal cost. It does not insure the vehicle itself, which must have its own physical damage coverage.

## Rental Cars

Some insurers offer endorsements that extend your auto liability coverage to include liability assumed under rental car agreements. This can be valuable protection, especially when rental contracts impose broad liability on the renter.

Insurers may also provide physical damage coverage for rental vehicles. When included, employees do not need to purchase the rental company's Collision Damage Waiver, which can be expensive. In certain states, such as Illinois, rental companies are required to absorb physical damage losses, but this varies by jurisdiction and should be verified.

## Long Term Leased Vehicles

Vehicles leased to your company under a long-term lease are typically insured as if they were owned vehicles. They can be scheduled on the policy and insured for both liability and physical damage, ensuring consistent protection regardless of ownership structure.

## Other Auto Insurance Considerations

**Drive Other Car Coverage** extends automobile insurance to certain individuals, typically owners or executives, when they drive vehicles not owned by the company, such as personal cars, borrowed vehicles, or rentals. Without this endorsement, individuals who rely solely on a company auto policy may have no personal auto coverage when driving a non-company vehicle. This endorsement is especially important for owners who do not maintain a separate personal auto policy.

**Auto Physical Damage Valuation:** Coverage for your vehicles can be written on several valuation bases. Most policies use Actual Cash Value, which pays the cost to repair or replace the vehicle, minus depreciation. Some insurers offer Stated Amount coverage, which requires

you to list a value for each vehicle; however, the insurer will pay the lesser of the stated amount or the Actual Cash Value at the time of loss. A few insurers may offer Agreed Value for specialty or high value vehicles, guaranteeing a specific settlement amount. Understanding these valuation methods helps ensure that your vehicles are insured appropriately.

**Employee Hired Auto Coverage** applies when an employee rents a vehicle in their own name for company business. Without this endorsement, the rental contract may place liability on the employee personally, even though the vehicle is being used for work. This coverage shifts liability back to the company's auto policy, protecting both the employee and the business.

**Fellow Employee Coverage:** Some auto policies exclude liability for injuries to a fellow employee caused by another employee driving a company vehicle. Fellow Employee coverage removes this exclusion, ensuring that the company's liability protection applies even when one employee injures another in the course of business. This can be important for service crews or installation teams who frequently travel together.

**Towing and Labor Coverage** reimburses the cost of towing or roadside assistance for covered vehicles. While modest in cost, it can be valuable for service trucks and vans that operate daily in the field. Coverage typically applies only to labor performed at the breakdown site, not repairs performed at a shop.

**Rental Reimbursement Coverage** pays for the cost of renting a temporary vehicle when a covered auto is out of service due to a physical damage loss. This can be especially important for service fleets, where the loss of even one vehicle can disrupt operations. Limits are usually stated as a daily amount, subject to a maximum number of days.

**Glass Coverage:** Some insurers allow separate coverage for glass breakage, which

can be written with a lower deductible than the main physical damage deductible. This can be useful for vehicles that frequently travel on highways or construction sites where glass damage is more common.

## Fleet Safety Programs

A comprehensive fleet safety program establishes the standards, behaviors, and controls needed to operate company vehicles safely and consistently. For door dealers - whose technicians drive daily, navigate residential neighborhoods and commercial properties, and transport tools and materials - an effective program reduces accidents, protects employees, and stabilizes insurance costs. Insurers often evaluate the strength of a company's fleet safety practices when determining pricing and insurability, making this an important operational and financial priority.

A strong program begins with clear **written policies** that outline expectations for safe driving, authorized vehicle use, seat belt requirements, and restrictions on mobile device use. These policies should be communicated during onboarding and reinforced through periodic training. Supervisors play a key role in monitoring compliance and addressing unsafe behavior promptly.

**Distracted driving controls** focus on reducing one of the most common causes of vehicle accidents: inattention behind the wheel. Effective controls prohibit texting, emailing, or using handheld devices while driving. Many companies require drivers to pull over before using a phone or rely on handsfree systems only when necessary. Additional measures may include limiting in-cab distractions, such as eating while driving or adjusting equipment while the vehicle is in motion. Clear rules, combined with training and enforcement, help protect employees, reduce liability exposure, and maintain the company's reputation when operating in residential neighborhoods and on public roads.

**Vehicle use policies** establish clear expectations for how company vehicles and personal vehicles used for company business are to be operated. These policies typically address authorized drivers, permitted uses, restrictions on personal use, and requirements for securing vehicles and equipment. They may also outline rules for parking at customer locations, transporting materials, and protecting customer property. A well-defined vehicle use policy helps reduce accidents, prevent misuse, and ensure consistent practices across the company. Written policies also support disciplinary action when unsafe or unauthorized behavior occurs, reinforcing a culture of safety and accountability.

Accident prevention also depends on **driver behavior and accountability**. Safe backing procedures, load-securement practices, and defensive driving techniques should be emphasized. Many companies use ride-along evaluations or periodic driver reviews to reinforce expectations. When accidents occur, prompt reporting and thorough documentation help identify root causes and prevent recurrence.

Selecting **qualified drivers** is one of the most effective ways to reduce automobile losses. Driver selection should include reviewing prior driving experience, verifying licenses, and evaluating familiarity with larger service vehicles. Ongoing training - such as defensive driving courses, safe backing procedures, and training on securing loads - helps reinforce safe habits. For door dealers, training should also address navigating residential neighborhoods and commercial properties, parking near customer homes and businesses, and protecting customer property while on site.

**Motor Vehicle Records** provide important information about a driver's history, including violations, accidents, and license status. Regular MVR monitoring helps identify high-risk drivers before they cause losses. Many insurers require annual MVR reviews, but more frequent checks may be appropriate for businesses with larger fleets or higher

exposure. Establishing clear standards for acceptable driving records, and removing or retraining drivers who do not meet them, helps protect both the company and its insurance program.

Some businesses enhance their programs with **telematics systems** that monitor speed, braking, idling, and route patterns. These tools provide objective data that can be used for coaching, identifying high-risk habits, and improving fuel efficiency. While not required, telematics can significantly strengthen a fleet safety program and may lead to more favorable insurance terms.

Regular **vehicle inspections and preventive maintenance** are essential components of fleet safety. Daily pre-trip and post-trip checks help identify issues early, while scheduled maintenance ensures brakes, tires, lights, and safety equipment remain in proper working order. Documenting inspections and repairs demonstrates responsible fleet management and supports insurance claims when losses occur.

**Accident reporting procedures** help ensure that losses are documented accurately and that the insurer can respond promptly. Every company vehicle should contain an accident reporting kit with instructions, contact information, and a form for gathering essential details. Drivers should know to secure the scene, assist injured parties, contact authorities when required, and avoid admitting fault. Photographs, witness information, and a clear description of events are critical. Prompt reporting allows the insurer to begin the investigation quickly, helps protect the company's legal position, and reduces the likelihood of disputes or delayed claims.

**Driver incentive programs** encourage safe, consistent driving habits by rewarding employees who demonstrate strong performance behind the wheel. These programs typically use measurable criteria such as accident-free periods, clean MVRs, positive telematics scores, or adherence to

company driving policies to recognize and reinforce safe behavior. Incentives may include recognition at meetings, small bonuses, preferred scheduling, or eligibility for additional training opportunities. When structured fairly and communicated clearly, incentive programs help build a culture of safety, reduce preventable losses, and strengthen the overall effectiveness of the fleet safety program.

A well designed fleet safety program is not a one-time effort, but an ongoing process of training, monitoring, and improvement. When consistently applied, it reduces accidents, protects employees, and supports long-term insurance stability.

## Section Four

# Other Liability Insurance

The following coverages are not normally included in standard General Liability policies. Some may be added by endorsement, but many require separate policies. These coverages address specific exposures that can affect a door and access systems dealer and should be evaluated based on the company's operations and risk profile

### Employee Benefits Liability

Employee Benefits Liability covers errors and omissions in the administration of employee benefit plans. This includes mistakes such as failing to enroll an employee in the medical plan, providing incorrect information about benefits, or failing to update coverage after a qualifying event. If an error results in an employee losing coverage and incurring significant expenses, this policy responds. Coverage may be added to a General Liability policy or obtained under a broader Fiduciary Liability policy.

### Non-Owned and Hired Automobile Liability

Non-Owned and Hired Automobile Liability is typically provided under an Automobile Insurance policy, but companies that do not own vehicles should add this endorsement to their General Liability policy. It covers lawsuits against the company arising from employees using personal or rented vehicles for company business. For example, if an employee is involved in an accident while driving their own car to a job site, the company may be named in the lawsuit. This coverage protects the business, but not the owner of the vehicle. The additional premium is usually minimal.

### Stop Gap Liability

Stop Gap Liability is associated with Workers' Compensation programs in states where employers must purchase coverage from a state fund. These monopolistic states do not provide Employer's Liability coverage, which is normally included in standard Workers' Compensation policies. The Stop Gap Liability endorsement fills this gap by providing Employer's Liability coverage for those states, protecting the company against lawsuits brought by employees for work-related injuries.

### Umbrella and Excess Liability

Umbrella and Excess Liability policies provide additional layers of protection above the limits of your primary insurance policies. For door dealers - who operate service vehicles, work on customer property, and employ technicians - these policies help safeguard the business from large or unexpected liability claims that could exceed the limits of standard coverage.

**Umbrella Policies** provide additional limits of insurance over your Automobile Liability, General Liability, and Employer's Liability (the liability portion of Workers' Compensation). Many insurers will also extend Umbrella coverage over other underlying policies, such as Non-Owned Aircraft Liability, when applicable.

A true Umbrella policy is broader than the underlying policies. This means it may cover certain types of claims that the primary policies exclude. When a loss is covered by the Umbrella but not by the underlying policy, the Umbrella insurer typically applies a self-insured retention, which functions like a deductible. The insurer pays only after the loss exceeds that retention amount.

**Excess Liability** policies provide additional limits only. They do not broaden coverage or add new types of protection. An Excess policy simply increases the amount available to pay claims once the underlying policy limits are exhausted. Because they do not expand coverage, Excess policies are generally more restrictive than Umbrella policies.

### **Coordination With Underlying Policies:**

General Liability and Employer's Liability policies often include aggregate limits, which cap the total amount they will pay during a policy year. To avoid gaps in coverage, the Umbrella or Excess policy should have the same policy term and expiration date as the underlying policies. Aligning policy periods ensures that the additional limits apply consistently throughout the year and prevents situations where the Umbrella or Excess policy does not respond because the underlying policy has expired.

A well-structured Umbrella or Excess program is an important part of protecting a growing business from catastrophic losses.

## **Professional Liability**

Professional Liability insurance (often called *Errors and Omissions* or E&O) protects individuals and firms whose work involves professional judgment, specialized knowledge, or advisory services. Architects, engineers, lawyers, accountants, doctors, consultants, and publishers are common examples of professions requiring this coverage. Professional Liability policies respond to claims alleging errors, omissions, negligence, or failure to meet professional standards.

Most Professional Liability policies are written on a Claims-Made basis, meaning the policy must be in force when the claim is made, not when the work was performed. Policies also include an Extended Reporting Period, which allows claims to be reported after the policy expires, subject to specific conditions. Because Claims-Made policies have strict reporting

requirements, insureds must understand how and when to notify the insurer of potential claims or circumstances that could lead to a claim.

Professional Liability coverage is essential for anyone acting in a professional capacity, as even small errors can lead to significant financial consequences.

## **Directors and Officers Liability**

Directors and Officers (D&O) Liability insurance protects corporate leaders against claims alleging errors, omissions, or wrongful acts in the management of the company. Although often associated with publicly traded corporations, privately held companies including door and access systems dealers face many of the same exposures. Industry studies show that a significant portion of D&O claims come from non-shareholder sources, including competitors, suppliers, customers, employees, and government agencies. This makes D&O coverage relevant even for small or closely held businesses.

**How State Law Shapes Coverage:** The ability of a corporation to indemnify its directors and officers is governed by state law, and these laws vary widely. Some claims may be reimbursed by the corporation, while others cannot be. Because of this, D&O policies are structured with two distinct insuring agreements:

- **Corporate Reimbursement Coverage:** Reimburses the corporation for amounts it is legally permitted or required to pay on behalf of its directors and officers. Most D&O claims fall into this category.
- **Individual Coverage for Directors and Officers:** Provides direct protection when the corporation is not allowed to indemnify its officials. Although these claims represent a smaller percentage of total D&O losses, they are critical because they expose individuals to personal financial liability.

Many states allow insurers to provide broader protection than the corporation itself is legally permitted to offer, making the insurance policy an essential safeguard for corporate leadership.

**Why D&O Claims Are Increasing:** Liability claims against directors and officers have risen in recent years due to increased regulatory scrutiny, employment related disputes, competitive pressures, and the growing complexity of business operations. Law firms specializing in D&O matters can assist companies with loss awareness, policy reviews, and risk prevention strategies to reduce the likelihood of claims.

A well-structured D&O program helps protect both the company and its leadership, supporting stability and informed decision making at the highest levels.

## Fiduciary Liability

Fiduciary Liability insurance protects individuals who administer or oversee their company's Employee Benefit Plans, such as retirement plans, health plans, or other ERISA-governed benefits. Under the Employee Retirement Income Security Act (ERISA), employers and plan administrators are held to strict fiduciary standards. A fiduciary can be held personally liable for losses to the plan resulting from a breach of duty, such as improper investment decisions, failure to follow plan documents, or administrative errors that reduce plan assets. Fiduciary Liability insurance responds to these allegations and helps protect both the company and the individuals involved.

This coverage is distinct from the ERISA Employee Dishonesty bond, which protects the plan against theft or fraud committed by employees. The bond covers loss of plan assets due to dishonesty, while Fiduciary Liability covers legal liability arising from mismanagement or administrative errors. Both

are important, but they address very different exposures.

Professional Liability policies may also provide fiduciary related coverage for individuals whose work involves broader fiduciary responsibilities. Lawyers, accountants, and trustees who administer estates, trusts, or client funds often require specialized coverage because their fiduciary duties extend well beyond employee benefit plans. For these professionals, a dedicated Fiduciary or Professional Liability policy ensures that their unique exposures are properly addressed.

## Aircraft Liability

Aircraft Liability insurance covers the company's legal responsibility arising from the ownership, maintenance, or use of aircraft that are owned by the business or held under long term lease. These policies also typically insure physical damage to the aircraft itself.

Because liability from aviation accidents can be extremely high, aircraft policies are complex and require specialized underwriting and expertise. Businesses that operate aircraft for executive travel, deliveries, or inspections should work with insurers and brokers who understand aviation exposures and regulatory requirements.

## Non-Owned Aircraft Liability

Non-Owned Aircraft Liability protects the company when employees use aircraft not owned by the business, such as personal aircraft, rented aircraft, or chartered flights, while conducting company business. If an accident occurs, the aircraft owner's insurance responds first, but the company may still be named in a lawsuit. This coverage protects the business, but not the aircraft owner or pilot. Many companies adopt formal policies restricting or regulating the use of non-owned aircraft to control this exposure and ensure that

appropriate insurance is in place before travel occurs.

## Environmental Impairment Liability

Environmental Impairment Liability (EIL) policies insure against bodily injury, property damage, and cleanup costs arising from a pollution event. These policies are typically written on a Claims-Made basis, meaning coverage applies only if the claim is made during the policy period or extended reporting period. Environmental exposures can be complex, involving regulatory requirements, long-tail claims, and scientific analysis. Because of this, businesses often need coordinated advice from environmental consultants, legal counsel, and insurance specialists.

Common environmental concerns include operational exposures from hazardous materials used in daily work, pollution arising from discontinued operations or past practices, and pre-existing contamination in land or buildings acquired by the company. Environmental issues are now a major factor in real estate transactions, lending decisions, and corporate acquisitions, making EIL coverage increasingly relevant.

## Asbestos

Asbestos remains a significant environmental and liability concern, even decades after its use was restricted. Although the use of asbestos in building materials was largely banned in the 1970s, the Environmental Protection Agency estimates that a substantial percentage of public and commercial buildings still contain asbestos in some form. Disturbing asbestos during renovation, demolition, or maintenance can release hazardous fibers, creating potential liability for bodily injury and cleanup costs. Addressing asbestos issues requires specialized environmental testing, legal guidance, and insurance expertise to

ensure compliance and proper risk management.

## Owners and Contractors Protective Liability (OCP)

Owners and Contractors Protective Liability policies are used in connection with construction projects to provide separate, project-specific liability coverage for the property owner or general contractor. Under an OCP policy, the insured is protected against bodily injury or property damage arising from:

1. Operations performed for the insured by the designated contractor or subcontractor at the specified project site.
2. The insured's own acts or omissions in supervising the contractor's work.

Property owners often request OCP policies to ensure they have dedicated liability protection for a particular project, rather than relying solely on the contractor's General Liability policy. This structure provides clearer separation of responsibilities and can help avoid disputes over coverage if a claim arises during construction.

## Employment Practices Liability

Employment Practices Liability (EPL) insurance protects a company against claims arising from its employment related decisions and workplace practices. These claims can be brought by current employees, former employees, or even applicants who were never hired. Common allegations include wrongful termination, discrimination, harassment, retaliation, failure to promote, and violations of workplace rights. Even when a claim has little merit, the cost of defending it can be substantial, making EPL coverage an important component of a company's overall liability program.

EPL policies typically cover legal defense costs, settlements, and judgments, subject to policy terms and exclusions. Many policies also include access to risk management resources, such as sample employment policies, training materials, and legal hotlines that help employers reduce the likelihood of claims. Because employment related disputes often involve complex state and federal regulations, insurers place significant emphasis on the company's HR practices, documentation procedures, and supervisory training.

Unlike General Liability policies, EPL coverage is specifically designed to address the unique risks associated with managing employees. Claims may arise from misunderstandings, poor communication, or inconsistent enforcement of workplace rules, even in companies with strong cultures and good intentions. For this reason, EPL insurance is valuable for businesses of all sizes, including privately held companies and family owned operations.

## Cyber Liability

Cyber Liability insurance protects a business from the financial and legal consequences of data breaches, network intrusions, and other technology related incidents. Even small and mid-sized companies face significant exposure because they store customer information, rely on cloud-based systems, and use connected devices in daily operations. A cyber incident can lead to compromised data, business interruption, regulatory penalties, and reputational harm. Cyber Liability policies help address these risks by covering both the immediate response costs and the longer-term liabilities that follow an attack.

Most policies include coverage for expenses such as forensic investigations, customer notification, credit monitoring, data restoration, and legal defense. Many also provide Business Interruption coverage when a cyber event shuts down or slows operations. Third-party liability protection applies when customers,

vendors, or other parties allege that the company failed to protect their data or contributed to the spread of malware. Because cyber threats evolve rapidly, insurers often pair coverage with risk management services, including employee training, security assessments, and incident response planning.

Cyber Liability has become increasingly important as businesses adopt digital tools, online payment systems, and remote access technologies. For companies in the door and access systems industry, additional exposures may arise from connected devices, service scheduling platforms, and customer databases. A well-structured Cyber Liability policy helps ensure that a single cyber incident does not create a severe financial or operational setback.

## Technology Errors and Omissions Liability

Technology Errors and Omissions (Tech E&O) insurance covers claims alleging financial loss caused by a company's failure to perform technology related services. As door dealers increasingly rely on connected devices such as smart operators, access control systems, and integrated security platforms, customers may expect the dealer to provide advice, configuration, or troubleshooting. If a system fails to operate as intended and causes a financial loss, a customer may allege improper installation, faulty programming, or negligent recommendations. Tech E&O policies respond to these claims, which are not covered by General Liability or Cyber Liability policies. This coverage is especially relevant for dealers who install or service internet-connected devices or provide remote support.

## Product Recall Expense

Product Recall Expense coverage reimburses the costs associated with recalling defective products that could cause bodily injury or

property damage. While door dealers are not typically manufacturers, they may sell private label products, assemble components, or modify equipment in ways that could create recall exposure. Recall costs can include customer notification, shipping, disposal, temporary replacement, and public relations expenses. Standard General Liability policies do not cover the cost of recalling a product, making this coverage important for businesses that distribute or modify equipment or perform light manufacturing.

## Cyber Crime and Social Engineering Fraud

Cyber Crime insurance protects against financial losses caused by fraudulent instructions, phishing attacks, or manipulation of employees into transferring funds or releasing sensitive information. These losses are not covered by Cyber Liability policies, which focus on data breaches and network intrusions. Door dealers are frequent targets for social engineering because they handle deposits, vendor payments, and scheduling information. Cyber Crime coverage helps protect the company when an employee is tricked into wiring funds, changing payment instructions, or providing access credentials to a criminal.

## Garagekeepers Liability

Garagekeepers Liability covers damage to customers' vehicles while they are in the care, custody, or control of the business. Although many door dealers do not routinely take possession of customer vehicles, some may temporarily move vehicles in garages or driveways to access the work area. If a customer's vehicle is damaged while being moved or while stored on company premises, Garagekeepers Liability responds. Without this coverage, the dealer may have no protection for damage to customer vehicles under standard General Liability policies.

## Contractual Liability

Contractual Liability coverage protects a business when it assumes liability through a contract. This is something door dealers encounter frequently when working with builders, commercial clients, HOAs, and property managers. Many contracts require the dealer to take on responsibilities that go beyond what standard General Liability policies automatically cover. These may include indemnifying the customer, holding them harmless for certain losses, or adding them as an additional insured. Without proper coverage, the dealer could unintentionally accept liability that the insurance policy will not honor.

Most General Liability policies include limited Contractual Liability coverage, but only for specific types of contracts defined in the policy. Problems arise when a contract contains broad indemnification language, shifting liability for issues the dealer did not cause or cannot control. In these cases, the insurance policy may not respond, leaving the business responsible for defense costs and damages. Reviewing contracts carefully, and coordinating them with insurance requirements, is essential to avoid taking on uninsured obligations.

Contractual Liability becomes especially important in commercial installations, new construction, and service agreements where customers often use standardized contracts drafted to favor their own interests.

Understanding what liabilities are being assumed, and ensuring the insurance program aligns with those obligations, helps prevent costly disputes and coverage gaps. For many dealers, working with legal counsel or an insurance professional to review contract language is a practical way to manage this exposure.

## Additional Insured Endorsements

Additional Insured endorsements extend your liability insurance to protect another party, such

as a builder, general contractor, property manager, or commercial client, when they are drawn into a claim arising out of your work. These endorsements are commonly required in construction contracts, service agreements, and vendor relationships. For door dealers, they are routine in commercial installations, new construction, and maintenance contracts where customers want assurance that your insurance will defend them if they are named in a lawsuit connected to your operations.

Most endorsements provide coverage only for liability arising out of your work, not for the additional insured's own negligence. However, contract language often attempts to shift broader responsibility to the dealer. This is where misunderstandings occur: the contract may require broad indemnification, but the insurance policy may only grant limited additional insured status. When the contract and the policy do not align, the dealer may unintentionally assume uninsured liability.

Additional Insured endorsements also interact closely with *Contractual Liability*. The contract may require you to indemnify the customer, and the Additional Insured endorsement is the mechanism that allows your policy to defend and pay on their behalf, within the limits of the endorsement. Because endorsements vary widely in scope, trigger, and completed-operations coverage, it is important to ensure the endorsement matches the obligations you are agreeing to in the contract.

Coordinating contract language, indemnification requirements, and Additional Insured endorsements helps prevent coverage gaps and disputes when a claim occurs. For many door dealers, reviewing customer contracts with an insurance professional is a practical way to ensure the insurance program supports the liabilities being assumed.

## Intellectual Property Liability

Intellectual Property (IP) Liability covers claims alleging infringement of copyrights,

trademarks, or trade dress. While door dealers are not typically high-risk IP users, exposures can arise from marketing materials, website content, product descriptions, or the use of proprietary software or images. Claims may involve unauthorized use of photos, logos, or technical content. IP Liability policies help cover defense costs and settlements for these types of claims, which are not covered under General Liability.

## Media and Advertising Liability

Media Liability protects against claims arising from advertising, online content, or promotional materials. Door dealers increasingly use social media, online reviews, and digital advertising. Claims may involve defamation, invasion of privacy, or misrepresentation in marketing materials. While the CGL includes limited "personal and advertising injury" coverage, it may not respond to modern digital exposures. A dedicated Media Liability endorsement or policy provides broader protection.

## Tenant Legal Liability

Tenant Legal Liability applies when a business leases space and becomes responsible for damage to the rented premises. Many leases require the tenant to assume liability for fire, water damage, or other losses to the building. General Liability policies include limited coverage for damage to rented premises, but the limits are often low. A Tenant Legal Liability endorsement or separate policy ensures adequate protection for the dealer's leased office, warehouse, or showroom.

## Foreign Liability

Foreign Liability covers claims arising from business activities outside the United States. Even small dealers may have exposures if employees travel internationally for training, vendor visits, or trade shows. Standard liability

policies often exclude foreign jurisdictions or limit coverage to the United States and Canada. A Foreign Liability policy extends protection for bodily injury, property damage, and certain travel related liabilities that occur abroad.

## Section Five

# Insurance Claims

Insurance policies contain specific conditions that outline your responsibilities when a loss occurs. These duties are not optional; failure to follow them can delay payment or jeopardize coverage. Every business should review these requirements carefully, mark the relevant policy sections for quick reference, and ensure that multiple people in the company understand the procedures.

### Duties After a Property Loss

Property policies require prompt notice of any loss or damage. Early reporting allows the insurer to investigate while evidence is fresh and helps prevent disputes later. After a property loss, the insured must:

- Protect the property from further damage, such as covering openings, shutting off utilities, or moving undamaged items to a safe area.
- Document the damage with photos, videos, and written descriptions.
- Provide a complete inventory of damaged property, including model numbers, quantities, and approximate values.
- Preserve damaged items until the insurer has inspected them or gives permission to discard them.
- Cooperate with adjusters and investigators, including allowing access to the premises.

Failure to protect property from further damage or discarding items too early can reduce or void coverage.

### Duties After a Liability Claim

Liability policies also require immediate notice of any claim, lawsuit, or incident that could reasonably lead to a claim.

This includes:

- Forwarding summons, complaints, or legal papers to the insurer as soon as they are received.
- Avoiding any admission of fault or assumption of obligations.
- Not incurring expenses (other than first aid) without the insurer's consent.
- Providing statements, documents, and cooperation as requested.

Excess Liability policies may have stricter reporting requirements, especially for serious injuries or high-value claims. Late reporting can jeopardize coverage under these policies.

### Cooperation and Recovery Rights

Insurance policies require the insured to cooperate fully with the insurer during the investigation and settlement of a claim. This includes:

- Making books, records, and relevant documents available.
- Providing statements or participating in interviews.
- Assisting in securing evidence and witnesses.

You also cannot waive the insurer's right of recovery (subrogation) after a loss. If another party caused the damage, the insurer may pursue them for reimbursement. Waivers signed before a loss, such as those in construction contracts, may be acceptable, but they should be reviewed with your agent or broker to ensure they do not conflict with policy terms.

## Long-Tail Claims and Policy Retention

Some claims arise decades after the work was performed. Courts may determine that the policy in effect at the time of the event, not the time of the claim, must respond. Because of this, expired policies should be retained indefinitely. Multiple people in the company should know where old policies are stored and policies should be organized by year and coverage type for quick retrieval. This is especially important for liability claims involving construction defects, product liability, or long term bodily injury allegations.

## Managing the Claims Process

Effective claims management can significantly reduce downtime, disputes, and financial impact. Best practices include:

- Assigning a claims coordinator - someone responsible for reporting losses, tracking adjuster communications, and maintaining documentation.
- Keeping a claims log with dates, contacts, and status updates.
- Communicating early and clearly with the insurer about repair plans, temporary measures, and business interruption concerns.
- Requesting written confirmation when the insurer authorizes repairs, disposal of damaged items, or settlement terms.
- Reviewing adjuster reports for accuracy, especially regarding scope of damage and replacement costs.

A well-managed claim often results in faster settlement and fewer disputes.

## Documentation and Recordkeeping

Accurate documentation is essential for both property and liability claims.

Businesses should maintain:

- Photographs and videos of damage or accident scenes.
- Work orders, invoices, and receipts for repairs or temporary measures.
- Employee statements taken as soon as possible after an incident.
- Maintenance logs, inspection records, and safety program documentation.
- Contracts, certificates of insurance, and subcontractor agreements relevant to the job.

Good documentation strengthens your position, supports the insurer's investigation, and helps prevent coverage challenges.

## Selecting Liability Limits

Determining appropriate liability limits is more complex than valuing property. Courts assign monetary values to injuries, property damage, and economic losses, and judgments have increased significantly in recent years. Key considerations include:

- The unpredictability of lawsuits - even non-hazardous businesses can face large claims.
- The potential for multiple serious events in the same year.
- The possibility that products considered safe today may be found hazardous later.
- The rising frequency of million-dollar verdicts.

For most small businesses, \$1 million is considered the minimum acceptable limit. Many businesses carry \$5 million to \$10 million, and larger companies carry significantly more. Ultimately, liability limits are determined by affordability, availability, and risk tolerance, but businesses should purchase as much protection as they can reasonably afford.

## Business Interruption Claims

Business Interruption claims arise when a covered property loss causes a slowdown or suspension of operations. These claims can be complex because they involve not only physical damage but also the financial impact of lost income and continuing expenses.

Prompt reporting is essential, and you should begin documenting the operational effects of the loss as soon as possible. Insurers typically require detailed financial records, including sales histories, production logs, payroll information, and expense reports, to determine the amount of lost income. Temporary measures taken to resume operations, such as renting equipment, relocating to another facility, or subcontracting work, should be documented carefully, as these may be covered under Extra Expense provisions.

Clear communication with the insurer about anticipated downtime, restoration timelines, and business conditions helps avoid disputes and ensures that the claim is evaluated accurately. Because Business Interruption losses can grow quickly, early coordination with your accountant, adjuster, and insurance representative is important.

## Automobile Claims

Automobile claims require prompt notice to the insurer, just like property and liability claims. After an accident, you should gather as much information as possible at the scene, including the names of all drivers and witnesses, vehicle information, and photographs of the damage and surroundings. Police reports should be obtained when appropriate, and any injuries should be reported immediately.

Damaged vehicles should not be repaired or disposed of until the insurer has inspected them or given permission to proceed. If the accident involves a company vehicle, the insurer may request driver logs, maintenance records, or other documentation to evaluate the claim.

When employees use personal or rented vehicles for company business, claims may involve both the employee's insurance and the company's Non-Owned and Hired Automobile Liability coverage.

As with other liability claims, you should not admit fault or make commitments without the insurer's approval. Cooperation with the adjuster and timely submission of requested documents help ensure that the claim is handled efficiently and correctly.

## Section Six

# Workers' Compensation

Workers' Compensation derives from a historic compromise in which employers accept full responsibility for all work-related injuries and illnesses arising out of employment. The system is designed as a single remedy and operates on a no-fault basis, meaning the employee does not need to prove negligence by the employer to receive benefits. In exchange, the employee waives the right to sue the employer for pain and suffering and other damages. The primary exception to this exclusive-remedy protection occurs in cases involving gross or willful misconduct by the employer.

Workers' Compensation policies include two basic coverages. The first provides statutory benefits for employees injured on the job, including medical care, wage replacement, and disability benefits. These benefits are determined by state law and vary from state to state.

The second coverage is Employer's Liability. This section protects the employer against lawsuits brought by employees for job-related injuries that fall outside the exclusive-remedy provisions of Workers' Compensation. Suits may also be brought by family members of employees. Although Workers' Compensation laws limit many types of lawsuits, Employer's Liability coverage remains important because such suits are still possible.

## Named Insured

The named insured section should be reviewed periodically for accuracy and completeness. All legal entities and operating names should be listed correctly to ensure that coverage applies as intended.

## Other States

The policy should list all states in which your company has employees. However, employees may occasionally work in other states on a temporary basis. The *Other States Endorsement* provides coverage for injuries that occur in states not originally listed on the policy. All states, except the monopolistic states, should be included in this endorsement to avoid gaps in coverage.

## Monopolistic States

There are currently four states that require Workers' Compensation insurance to be purchased directly from the state fund. These **monopolistic states** are the sole providers of Workers' Compensation coverage within their borders. These states are North Dakota, Ohio, Washington, and Wyoming. Policies issued by these state funds do not include Employer's Liability coverage, so employers operating in these states may need to purchase separate Stop Gap Liability coverage.

## Competitive State Funds

Some states operate publicly owned Workers' Compensation funds that compete in the open market. These funds are not exclusive providers, as is the case with monopolistic state funds, but instead offer an alternative to private insurance carriers.

Employers in these states may purchase coverage from the competitive state fund or from a standard insurance company. These funds should not be confused with Assigned Risk Pools, which exist as markets of last resort for employers who are unable to obtain

Workers' Compensation coverage in the voluntary market.

## Stop Gap Liability

Because monopolistic states do not include Employer's Liability coverage in their Workers' Compensation policies, employers operating in those states must obtain this protection separately. Stop Gap Liability fills this gap by providing Employer's Liability coverage for operations in monopolistic states. In some cases, Stop Gap coverage may be available as an endorsement to a General Liability policy, allowing employers to maintain consistent liability protection across all states in which they operate.

## Voluntary Compensation

Voluntary Compensation coverage extends Workers' Compensation benefits to categories of workers who are not required to be covered under state Workers' Compensation laws. This may include partners, certain officers, domestic employees, or other classes of workers whose status varies by state. The endorsement allows these individuals to receive statutory benefits if they are injured while performing work for the business.

Voluntary Compensation is also sometimes used to provide coverage for company-sponsored athletic teams or recreational activities. Injuries arising from such activities should be evaluated carefully to determine whether this additional coverage is appropriate.

## Foreign Travel

If employees travel outside the United States on business, you should consider adding Endemic Disease and Repatriation Expense coverages.

Workers' Compensation covers job-related injuries, but the *Endemic Disease* endorsement expands this protection to include illnesses that are common in the region where the employee is traveling. An example of this would be malaria contracted during business travel.

*Repatriation Expense* coverage pays the additional costs of returning a sick or deceased employee to the United States. These expenses can be extremely high and may involve special aircraft, medical transport arrangements, or other extraordinary measures.

Employees who work in a foreign country for an extended period, as opposed to short term business travel, may require a separate foreign Workers' Compensation policy to ensure proper coverage under local laws and conditions.

## FELA, Jones Act, and USLH

Federal law requires specific benefits for employees in certain occupational categories. If your company employs individuals in any of these categories, you should discuss appropriate coverage with your insurance agent.

- The Federal Employers' Liability Act (F.E.L.A.) applies primarily to employees of railroads.
- The Jones Act provides benefits for seamen and other maritime workers.
- The United States Longshoremen and Harbor Workers Act (U.S.L.H.) applies to employees working on or near navigable waters.
- The Outer Continental Shelf Lands Act extends coverage to employees involved in offshore oil exploration or production.
- The Defense Base Act applies to civilians working on United States defense installations overseas and is also an extension of the U.S.L.H. Act.

Because these laws can provide greater benefits than standard Workers' Compensation, employees outside these occupational categories sometimes attempt to broaden the definition of who is covered. For this reason, some employers choose to add coverage for these federal programs on an "if any" or contingency basis to protect against unexpected claims.

## Rating

At the beginning of each policy year, the employer provides an estimate of payroll for the upcoming year. At the end of the policy year, the insurer conducts an audit of actual payroll and adjusts the premium up or down based on the results.

Payroll must be reported by state and by job classification. Rates vary significantly among job categories, so the allocation of payroll should be reviewed carefully to ensure accuracy.

Higher limits of Employer's Liability coverage are available for a moderate increase in premium and should be considered as part of the overall Workers' Compensation program.

## Modification Factors

An experience modification factor represents either a credit or a debit applied to the Workers' Compensation premium before discounts. It adjusts the premium based on the employer's actual loss experience compared to what is expected for similar businesses.

The formula used to calculate experience modifications places greater emphasis on the frequency of accidents than on the severity. As a result, a company with several small claims will be affected more than a company with a single large loss. This underscores the importance of maintaining safe work practices, preventing minor injuries, and having an

effective return-to-work program to reduce both the number and duration of claims.

Regular review of open claims, prompt reporting, and active communication with adjusters help ensure that claims are resolved efficiently. Employers should monitor loss runs, identify trends, and work with their insurance representatives to close claims that no longer require benefits. Effective claims management and strong safety practices are the most reliable ways to maintain a favorable modification factor.

## Return-to-Work and Light-Duty Programs

A well-designed return-to-work program helps injured employees resume productive activity as soon as medically appropriate. Door dealers often have suitable light-duty tasks available, such as inventory work, shop assembly, equipment maintenance, training, or administrative support.

Returning employees to modified duty reduces the duration of wage replacement benefits and helps them stay connected to the workplace. It also lowers claim costs and improves the company's experience modification factor.

Communication with medical providers is important to ensure that modified assignments comply with any restrictions. A consistent return-to-work program benefits both the employer and the employee.

## Safety Programs and Loss Prevention

Workers' Compensation costs are directly influenced by the frequency and severity of workplace injuries, making safety programs essential for controlling premiums. Door dealers face predictable hazards, including lifting heavy doors and operators, working at heights, handling springs under tension, and

using power tools. A structured safety program that includes regular training, jobsite inspections, and enforcement of safe work practices can significantly reduce injuries.

Toolbox talks, lockout/tagout procedures, and proper use of ladders and personal protective equipment are particularly important in this industry. A strong safety culture not only protects employees but also reduces claims and helps maintain favorable experience modification factors.

## Industry-Specific Classifications and Misclassification Risks

Workers' Compensation premiums depend heavily on proper job classifications, and door dealers often have several distinct categories of employees. Installers and service technicians typically fall into higher rated construction or mechanical classifications because they work at customer locations, use power tools, climb ladders, and handle heavy materials. Office staff, salespeople, and warehouse personnel fall into different classes with significantly lower rates.

Misclassification can lead to substantial premium adjustments during audits, especially if payroll is incorrectly assigned to a lower rated class. Because technicians may perform a mix of duties, it is important to maintain accurate job descriptions and payroll records that reflect the work performed. Careful classification helps ensure that premiums are fair and that the business avoids unexpected charges at audit time.

## Subcontractors, Certificates of Insurance, and Statutory Employer Exposure

Door dealers frequently use subcontractors for specialized or supplemental work. If a subcontractor does not carry valid Workers' Compensation insurance, the hiring contractor

may be considered the statutory employer and become responsible for injuries to the subcontractor's workers. This can result in significant and unexpected claims.

To avoid this exposure, subcontractors should provide certificates of insurance before work begins, and certificates should be reviewed to ensure they are current and list Workers' Compensation coverage. Written subcontractor agreements should clearly define responsibilities and require the subcontractor to maintain coverage throughout the project. Proper documentation protects the dealer from assuming unintended liability.

## Motor Vehicle Related Injuries and Dual Coverage Issues

Door dealers rely heavily on service vehicles, and many Workers' Compensation claims arise from automobile accidents involving technicians traveling between job sites. When an employee is injured in a vehicle accident while performing job duties, Workers' Compensation typically covers the injury, while the Automobile Liability policy covers damage to other vehicles or property. Medical Payments coverage under the auto policy may also apply, but Workers' Compensation is usually the primary source of benefits for the employee.

Understanding how these coverages interact helps avoid confusion and ensures that claims are reported correctly. Because vehicle accidents are a major source of injuries, driver training and fleet safety programs are important components of loss prevention.

## Ergonomics and Repetitive-Motion Injuries

Technicians frequently lift heavy panels, operators, and tools, often in awkward positions or overhead. These activities can lead to strains, sprains, and repetitive-motion

injuries, which are among the most common Workers' Compensation claims in the door industry.

Proper lifting techniques, use of mechanical aids, team lifting, and ergonomic training can significantly reduce these injuries. Employers should evaluate job tasks for ergonomic risks and provide equipment such as lift carts, dollies, and appropriate hand tools.

Reducing repetitive-motion injuries not only protects employees but also helps control claim frequency and Workers' Compensation costs.

## **Mental Stress and Traumatic Event Claims**

Although less common, employees may experience mental stress or trauma related to workplace events, such as witnessing a serious accident or responding to an emergency situation. State laws vary widely on whether mental stress claims are compensable, and some require an accompanying physical injury.

Employers should document any incident that may give rise to such a claim and report it promptly to the insurer. Providing access to employee assistance programs or counseling services can help employees recover and may reduce the likelihood of long term claims. Understanding how mental stress claims are treated in your state helps ensure compliance and appropriate handling.

## **OSHA Interaction and Reporting Requirements**

Workers' Compensation claims often trigger OSHA reporting or recordkeeping requirements. Certain injuries must be recorded on OSHA logs, and serious incidents such as hospitalizations, amputations, or fatalities must be reported to OSHA within

specific time frames. Door dealers should understand when OSHA reporting is required and maintain accurate safety records.

OSHA inspections may follow certain types of claims, and having a documented safety program, training records, and incident reports can help demonstrate compliance. Coordination between Workers' Compensation reporting and OSHA requirements ensures that the business meets all regulatory obligations.

## **Fraud Prevention and Investigation**

Workers' Compensation fraud can occur in several forms, including exaggerated injuries, false claims, or misrepresentation of job duties. Employers can help prevent fraud by maintaining accurate documentation, conducting prompt accident investigations, and keeping open communication with employees and medical providers. Insurers may investigate claims when circumstances appear unusual, and employers are required to cooperate fully. A consistent reporting process, clear safety policies, and thorough documentation help reduce the likelihood of fraudulent claims and protect the business from unnecessary costs.

## **Workers' Compensation Claims**

Workers' Compensation claims require immediate attention because delays in reporting can complicate medical treatment, increase claim costs, and create disputes about whether the injury is work-related. When an employee is injured, medical care should be arranged promptly, and the injury should be reported to the insurer as soon as possible. Most states require employers to file a First Report of Injury within a specific time frame, and missing these deadlines can result in penalties or coverage issues.

Accurate documentation is essential, including details about how the injury occurred, witness

statements, photographs of the area where the incident took place, and any equipment or materials involved. Supervisors should record the facts while they are still fresh, and the employee should provide a clear description of the injury and symptoms.

Workers' Compensation insurers may direct injured employees to specific medical providers or occupational health clinics. Following these guidelines helps ensure that treatment is coordinated properly and that medical reports are submitted to the insurer in a timely manner.

Employers should maintain open communication with both the employee and the insurer throughout the claim. This includes providing job descriptions, physical demand information, and details about available light-duty or transitional work assignments. Offering modified duty can help employees return to work sooner, reduce claim costs, and minimize the impact on experience modification factors.

Insurers may investigate claims to confirm that the injury arose out of and in the course of employment. Cooperation with the adjuster is required, including providing payroll records, timecards, training documentation, and safety program information when requested.

Employers should avoid making assumptions about the cause of the injury or promising specific benefits to the employee, as these determinations are made by the insurer based on state law. Maintaining consistent procedures for reporting, documenting, and managing injuries helps reduce disputes and ensures that claims are handled efficiently.

Workers' Compensation claims can have long term financial effects on the business through increased premiums and experience modification factors. Prompt reporting, accurate documentation, and active management of return-to-work efforts are key to controlling these costs. Regular review of

loss runs and open claims with your agent or insurer can help identify trends, improve safety practices, and reduce the likelihood of future injuries.

## Section Seven

# Other Insurance

Insurance programs for a business extend beyond the commercial policies that protect property, vehicles, and liability exposures. Employers are also responsible for several important coverages that relate directly to their workforce. These include unemployment insurance, life insurance, and health insurance. While these coverages operate differently from traditional business insurance, they play a critical role in supporting employees, meeting legal obligations, and maintaining a stable and competitive workplace.

Understanding how these programs function helps employers manage costs, comply with state and federal requirements, and provide meaningful benefits to their employees. This chapter outlines the basic features of these coverages and explains how they apply within a typical door and access systems business.

## Unemployment Insurance

Unemployment insurance is not insurance in the traditional sense, since it is not purchased as a policy. Instead, it is a mandatory program governed by federal and state laws and funded through taxes on wages.

The current federal unemployment tax is 6.2% of covered wages, applied to a maximum of \$7,000 in wages per employee.

State unemployment taxes fund each state's unemployment program, and employers receive up to a 90% credit against the federal tax if they pay into a state unemployment system.

Unemployment insurance is designed to compensate workers who have lost their jobs and their income. The purpose is not only to protect employees during economic downturns, but also to help stabilize the overall economy.

Unemployment benefits allow displaced workers to maintain some purchasing power, which helps prevent sharp declines in consumer demand. By supporting consumer spending, unemployment insurance helps stabilize the job market. Without such a program, widespread job losses would reduce purchasing power, leading to further layoffs and potentially pushing the economy into recession.

Eligibility requirements vary by state, but all states require that the worker have prior employment in a covered occupation. Many states also require that the worker meet minimum earnings thresholds during the preceding year. In addition, all states require that the worker be available for and committed to employment. This generally means the worker must have been terminated for reasons beyond their control and must be willing to seek and accept suitable work. The definition of "suitable work" is determined by the administrative agency that operates the program.

For workers who qualify, both the amount and duration of unemployment benefits vary by state. Benefit amounts are generally tied to the worker's previous earnings, subject to state maximums. Most states limit benefits to a maximum of 26 weeks, although some states provide longer durations or extend benefits during periods of high unemployment.

## Life Insurance

Life insurance provides a benefit upon the death of the insured person, with the proceeds typically paid to a designated beneficiary. Life insurance can be purchased on an individual or group basis and is available in several forms, including term life and permanent life policies.

A business, or the individuals who own it, generally purchases life insurance for one of two purposes. First, an individual life insurance policy can provide funds to help ensure the continuation of the business in the event of the death of an owner, partner, or key employee. This is commonly known as a business continuation plan. Second, a business may purchase life insurance to provide benefits for its employees as part of an employee benefits program.

*Key Person Life Insurance* is written on the life of an important or essential individual within a business. Under this type of policy, the business purchases insurance on the life of a person whose continued involvement is critical to the company's success and whose death would cause financial loss. A key person may be an owner, partner, or employee whose skills, knowledge, or relationships are vital to the business.

When a business purchases key person life insurance, the business owns the policy, pays the premiums, and is the beneficiary. If the key person dies, the policy proceeds are paid to the business.

This type of insurance helps protect the company financially during the period immediately following the loss of a key individual, allowing time to recruit, train, or transition responsibilities without jeopardizing operations.

## Accidental Death and Dismemberment (AD&D) Insurance

Accidental Death and Dismemberment (AD&D) insurance provides a lump-sum benefit if an employee dies or suffers certain serious injuries as the result of an accident. AD&D coverage is often bundled with group life insurance and is relatively inexpensive.

Because door and access systems technicians frequently work with ladders, power tools, and

heavy equipment, AD&D insurance can offer meaningful financial protection for employees and their families. Employers may include AD&D as part of their benefits package to enhance employee security and provide additional support in the event of a serious accident.

## Disability Insurance

Disability insurance provides income replacement when an employee cannot work due to non-work-related illness or injury.

- *Short-Term Disability (STD)* typically covers the initial period of disability, often ranging from several weeks to a few months.
- *Long-Term Disability (LTD)* provides extended benefits for more serious or lasting conditions that prevent an employee from returning to work for an extended period.

Some states require employers to provide disability benefits, while others treat it as an optional program. For employers, disability insurance helps employees maintain financial stability during periods of illness or injury and reduces pressure on the business to provide ad-hoc wage support. Because many injuries and illnesses occur off the job, disability insurance complements Workers' Compensation and helps maintain workforce stability.

## Health Insurance

Health insurance is a contract under which an insurer agrees to pay or provide a monetary benefit for bodily injury, illness, or disability suffered by the insured. It also typically covers expenses related to these conditions, including preventive care.

Health insurance is available to both individuals and groups and is provided through a variety of private organizations and

government programs. Businesses purchase health insurance either to provide employee benefits or to protect themselves against the financial impact of an employee's illness, injury, or disability.

Health insurance options have evolved significantly over time, and several types of programs are commonly used to protect employees from financial hardship when illness or off-the-job injury occurs.

**Indemnity Plans** are the traditional "freedom of choice" non-managed care programs. These plans typically pay 80% of covered expenses after the insured meets a relatively low deductible. The insured's share of expenses is capped by an out-of-pocket limit, which historically could be as low as \$1,000. Although still available, these plans have become expensive compared to managed care options.

**Health Maintenance Organizations (HMO)** provide medical services through their own staff and facilities. HMOs generally have few pre-existing condition restrictions and control costs by managing the delivery of care within their network. This structure allows them to offer lower costs to employers.

Some individuals may be reluctant to transition from their personal physicians to staff-based care, but reduced out-of-pocket costs often help ease this concern.

HMOs are not insurance companies and are regulated by state departments of corporations rather than insurance departments, so employers should be aware of the financial strength of the HMO they select.

**Preferred Provider Organizations (PPO)** offer an alternative to HMOs. Insurance companies contract with independent physicians and medical providers to create networks that offer reduced fees. When insureds use these preferred providers, costs to the insurer are lower, and these savings are passed on through reduced premiums.

PPO networks often include physicians already used by employees and their families. Out-of-pocket costs under PPOs are generally lower than under Indemnity Plans but higher than those associated with HMOs.

**High Deductible Health Plans (HDHP)** feature lower premiums and higher deductibles than traditional health plans. They are designed to provide protection against catastrophic illnesses while requiring higher out-of-pocket expenses for routine care. Enrollment in an HDHP is also a requirement for participation in a Health Savings Account.

**Health Savings Accounts (HSA)** are medical savings accounts that offer tax advantages to individuals enrolled in an HDHP. Contributions are not subject to federal income tax, and funds accumulate year after year if not spent. HSA funds belong to the individual and may be withdrawn without insurer approval for qualified medical expenses.

Withdrawals for non-medical purposes are treated similarly to those from an IRA, with potential tax advantages after retirement age and penalties for early withdrawal. Account holders must maintain documentation of qualified expenses, and some employers issue debit cards for convenient access to HSA funds.

**Flexible Spending Accounts (FSA)** allow employees or employers to set aside a limited amount of money to cover certain out-of-pocket health care expenses. These funds can be used for medical expenses such as copayments and deductibles but cannot be used to pay insurance premiums. Contributions are not subject to income tax, and employees have access to the full annual amount at the beginning of the plan year.

FSAs are available only through employer-sponsored health plans. Funds not used by the end of the year are partially or completely forfeited, depending on plan rules. Some employers issue debit cards to provide convenient access to FSA funds.

## Dental and Vision Insurance

Dental and vision insurance are common employee benefits offered alongside health insurance. Dental plans typically cover preventive care, basic procedures, and major services, while vision plans generally cover eye exams, glasses, and contact lenses. Although these benefits are not legally required, they are valued by employees and can help employers attract and retain skilled workers in a competitive labor market. For door dealers, where technicians rely on good physical health and clear vision to perform detailed work safely, these benefits can contribute to overall employee well-being and job performance.

## Employee Assistance Programs (EAP)

Employee Assistance Programs (EAPs) are not insurance in the traditional sense, but they are often included as part of an employer's benefits package. EAPs provide confidential counseling and support services for issues such as stress, substance abuse, family concerns, and financial challenges. These programs can help employees address personal difficulties before they affect job performance or lead to extended absences. For employers, EAPs can reduce absenteeism, improve morale, and support a healthier and more productive workforce.

## Travel Accident Insurance

Travel Accident Insurance provides benefits if an employee is injured or killed while traveling on company business. This coverage is particularly relevant for businesses with employees who travel frequently, whether by vehicle or air. Door dealers may have sales staff, supervisors, or technicians who travel long distances or visit multiple job sites in a single day. Travel Accident Insurance offers an additional layer of protection for employees who face increased exposure while traveling

and helps ensure that their families are financially supported in the event of a serious accident.

## Critical Illness Insurance

Critical Illness Insurance pays a lump-sum benefit if the insured is diagnosed with a covered serious illness, such as cancer, heart attack, or stroke. These policies help employees manage high out-of-pocket medical costs or lost income that may not be fully covered by health insurance.

Critical illness coverage is often offered as a voluntary benefit, allowing employees to choose additional protection based on their personal needs. For employers, offering this coverage can enhance the overall benefits package without significantly increasing costs.

## Long-Term Care Insurance

Long-Term Care Insurance helps pay for extended care services such as nursing homes, assisted living facilities, or in-home care. Although typically associated with older individuals, some employers offer long-term care coverage as a voluntary benefit for employees who wish to plan ahead for future needs. These policies can also be attractive to long-tenured employees or those with family caregiving responsibilities. Including long-term care options in a benefits program can help employees manage long-range financial risks.

## Retirement Plans with Insurance-Based Components

Some employer-sponsored retirement plans include insurance-based components, such as group annuities or life insurance riders. These products may be used to fund pension obligations or provide additional financial protection for employees. While not traditional insurance policies, these components function

similarly by offering guaranteed income streams or survivor benefits. Employers should understand how these features operate within their retirement plans and how they complement other employee benefits.

## **Bringing Employee Insurance Together**

The insurance programs described in this chapter extend beyond the traditional commercial policies that protect a business's property and operations. They address the financial security and wellbeing of the workforce, and they help employers meet legal obligations while maintaining a competitive and stable workplace.

Whether mandated by law or offered voluntarily, these coverages - ranging from unemployment insurance to health, life, disability, and other employee benefit programs - play an important role in attracting and retaining qualified employees and supporting them through illness, injury, or personal hardship. By understanding how these programs function and how they apply within a door and access systems business, employers can make informed decisions that protect both their employees and the long-term health of the organization.

## Section Eight

# Risk Management

## Understanding Risk in a Business Environment

Risk is the element of uncertainty present in any undertaking. Every business faces risk daily, and understanding the nature of that risk is the first step toward managing it effectively. Broadly speaking, there are two types of risk.

The first type involves the possibility of either profit or loss, such as investing in the stock market or making business decisions that involve committing capital in hopes of earning a return. These speculative risks are not insurable because they involve the potential for gain.

The second type of risk is pure risk. These are situations in which a business can only lose or, at best, break even. Examples include slip-and-fall incidents in a company's store, property damage, or injuries caused by defective products or unsafe work practices. Pure risks are the ones that business owners must pay close attention to, because they can lead to financial loss, legal liability, and operational disruption. These are also the risks that insurance policies are designed to address.

Door and access systems dealers face a wide range of pure risks: jobsite hazards, vehicle accidents, installation errors, product failures, and customer injuries. Understanding these exposures is essential for supervisors and owners who must protect both the business and its employees.

## The Role of Risk Management

Risk Management is the process businesses use to identify, evaluate, and address pure risks. Large corporations often employ full-time

risk management professionals, but this is not practical for most door and access systems dealers. As a result, supervisors play a critical role in recognizing hazards, enforcing safe work practices, and ensuring that risks are addressed before they lead to losses.

Effective risk management requires a basic understanding of how risks arise, how they can be controlled, and how decisions made in the field affect the company's overall exposure. Supervisors are often the first to observe unsafe conditions, improper procedures, or potential liabilities, making their involvement essential to the success of any risk management program.

## The Four Methods of Managing Risk

The practice of risk management involves identifying risks, assessing their potential impact, and determining how to handle them. Businesses generally have four options:

1. Avoid the risk
2. Control the risk
3. Accept the risk
4. Transfer the risk

Each method has advantages and limitations, and most businesses use a combination of all four.

**Avoiding Risk:** Avoidance means eliminating the activity that creates the risk. While avoiding all risk would mean not doing business at all, avoidance is sometimes a practical choice. For example, a dealer may choose not to bid on a large project if competitive pricing pressures make the job unprofitable or if the project involves unusual hazards or contractual obligations that increase liability. In such

cases, walking away is a deliberate risk-management decision.

However, most risks cannot be avoided. Any time a business opens its doors, manufactures a product, or installs a door system, it is exposed to potential liability. Because avoidance is rarely feasible as a long-term strategy, businesses must rely on other methods to manage risk.

**Controlling Risk** involves taking proactive steps to reduce the likelihood or severity of a loss. This is often the most practical and effective method for door dealers. Examples include hiring qualified employees, providing proper training, enforcing safety procedures, maintaining equipment, and conducting job-site inspections. Supervisors play a central role in controlling risk by ensuring that employees follow established procedures and by correcting unsafe practices before they lead to accidents.

While controlling risk can significantly reduce exposure, it cannot eliminate all potential losses. Even with strong safety programs, accidents can still occur, and businesses must be prepared to address them through other risk management methods.

**Accepting Risk** means acknowledging that some losses are inevitable and choosing to bear the financial consequences. Businesses may accept small, predictable losses because the cost of preventing them exceeds the cost of the loss itself. For example, a dealer may choose to absorb minor tool losses, small warranty claims, or incidental property damage rather than purchasing additional insurance or implementing costly controls.

Risk acceptance is a deliberate decision and should be based on an understanding of the potential financial impact. It is most appropriate for low severity, high frequency losses that do not threaten the financial stability of the business.

When a business chooses to accept a risk, it assumes financial responsibility for any loss that may occur. This may be done intentionally, because the cost of insurance outweighs the potential loss, or unintentionally, when a business fails to recognize the severity of a risk.

Accepting risk can take the form of total or partial responsibility. When a business or individual chooses to bear the entire cost of a potential loss, it is said to be *self-insured*. Partial self-insurance occurs when insurance covers only a portion of the loss and the business retains the remainder.

Some states allow businesses to fully self-insure certain exposures, such as Workers' Compensation. In these cases, the employer becomes entirely responsible for paying benefits to injured employees. While this approach may reduce premium costs, it requires significant financial resources and administrative capability. For most door and access systems dealers, full self-insurance is not practical due to the potential severity of workplace injuries and the volatility of claims.

Before accepting or self-insuring any risk, a business must carefully evaluate the potential financial impact. A single uninsured loss such as a severe injury, major property damage, or a liability claim can be devastating. Supervisors and owners must weigh the cost of insurance or contractual risk transfer against the possible consequences of retaining the risk.

**Transferring Risk** is one of the most common and effective methods of risk management. Under this approach, a business shifts responsibility for certain losses to another party. Risk transfer typically occurs in two ways: through insurance or through contractual agreements.

*Contractual Transfer of Risk:* Contracts allow businesses to allocate responsibility for losses between parties. For example, when goods are shipped from a seller to a buyer, the Uniform Commercial Code provides default rules for

determining who bears the risk of loss during transit. If the contract is silent, the buyer may bear the risk once the goods are delivered to the carrier. However, the parties can alter this arrangement by specifying that the seller retains the risk until the goods reach the buyer's location.

Door dealers frequently enter into contracts with customers, subcontractors, suppliers, and general contractors. Clear contract language such as indemnification clauses, hold-harmless agreements, and requirements for insurance helps ensure that risk is allocated appropriately.

*Insurance* is the most widely used method of transferring risk. By purchasing an insurance policy, a business shifts the financial burden of certain losses to the insurance company, provided the business meets its obligations under the policy, such as paying premiums and complying with policy conditions. Common examples include automobile insurance, general liability insurance, property insurance, and Workers' Compensation.

For door dealers, insurance plays a central role in managing exposures related to installation work, service operations, vehicle fleets, and customer interactions. Insurance does not eliminate risk, but it provides financial protection that allows the business to continue operating even after a significant loss.

## **The Importance of Loss Control**

Risk management is most effective when combined with a strong loss control program. Loss control focuses on identifying hazards, preventing accidents, and reducing the severity of losses when they occur. Dealers should take advantage of the loss control services offered by their insurance companies and by industry organizations such as the International Door Association.

Loss control professionals are trained to identify unsafe conditions, inefficient practices, and operational weaknesses that may lead to claims. Their recommendations often include improvements in training, equipment maintenance, jobsite procedures, and workplace organization. Implementing these recommendations requires commitment from ownership and consistent enforcement by supervisors.

A proactive approach to loss control can prevent many losses before they occur. This not only protects employees and customers but also reduces insurance costs, improves productivity, and strengthens the company's reputation.

## **The Supervisor's Role in Risk Management**

A company may have detailed policies and procedures designed to reduce or eliminate risks, but written policies alone do not prevent losses. People do. Supervisors are the key to ensuring that risk management principles are applied consistently in day-to-day operations. They observe work practices, correct unsafe behavior, enforce company policies, and model professional conduct.

Effective supervisors understand the risks inherent in door and access systems work. They recognize that their decisions directly influence the company's exposure to loss. By promoting safe work habits, maintaining open communication, and reinforcing training, supervisors bring the company's risk management program to life.

A strong risk management culture begins with ownership, but it is sustained by supervisors who ensure that policies are implemented, hazards are addressed, and employees understand their role in protecting themselves and the business.

## Section Nine

# Liability Issues

In addition to the legal liability that faces business in the employment of personnel, businesses face liability through a variety of other situations, such as the contracts it enters, the products it places into the stream of commerce, and through having others on its property. This section will briefly review the latter two types of liability, which are commonly known as *Products Liability* and *Premises Liability*.

### Products Liability

Products Liability refers to the legal responsibility of manufacturers and sellers to compensate buyers, users, and even bystanders for injuries or damages caused by defective products. Any business that places goods into the stream of commerce must be aware of this potential liability, as defects can arise at multiple stages of production and distribution.

Two primary types of defects can render a product defective: **manufacturing defects** and **design defects**.

A manufacturing defect occurs when a product departs from its intended design and is more dangerous than other identical products because something went wrong during the manufacturing process.

A design defect exists when all products in a line are made according to specifications, but the design itself creates unreasonable danger due to mechanical features, packaging, or other inherent characteristics. Inadequate warnings or instructions can also constitute a design defect if the absence of proper warnings makes the product unsafe.

Each state determines what constitutes a defective product sufficient to support a products liability claim. However, most states follow the rule found in Section 402A of the Restatement (Second) of Torts, which holds that a product may be the basis for liability if it is in a defective condition unreasonably dangerous to the user.

Courts generally determine whether a product is “unreasonably dangerous” in one of two ways. The first is the consumer expectation test, which asks whether the danger was beyond what an ordinary consumer would anticipate. The second is the feasibility test, which considers whether a safer, economically feasible alternative design or modification existed.

In applying this latter method, courts often evaluate factors such as:

- Usefulness and desirability of the product
- Availability of safer alternative products
- Dangers known at the time of trial
- Likelihood and probably seriousness of injury
- Obviousness of the danger
- Normal public expectations
- Ability to avoid risk through careful use
- Feasibility of eliminating the danger without impairing the product’s utility or making it uneconomical.

A common example illustrating the feasibility approach is the kitchen knife. Knives are highly useful tools, and although they can cause injury, the danger is obvious and cannot be eliminated without destroying the knife’s utility. Therefore, a kitchen knife is not considered unreasonably dangerous, and the supplier would not be liable for injuries resulting from normal use.

A business may also be liable for failing to provide adequate warnings. If a consumer is injured due to a foreseeable misuse of a product, and the supplier failed to warn against that misuse, liability may result. Foreseeable misuse refers to the use of a product in a way not intended by the supplier but predictable based on common human behavior.

Warnings must be clear, conspicuous, and understandable to the average user. Failure to warn can even result in punitive damages, which are penalties not covered by insurance. Failure to install product warning labels supplied by a manufacturer for a product that your company installed could add risk of failure to warn.

If a business becomes the subject of a products liability lawsuit, several defenses may be available. A business may defend itself by showing that the plaintiff assumed the risk, misused the product in a way that was not foreseeable, or was wholly or partially at fault. These defenses may be limited, however, in cases involving strict liability. In states that apply strict liability principles, the primary remaining defense is comparative negligence, which reduces the plaintiff's recovery if the plaintiff's own conduct contributed to the injury.

## Premises Liability

Premises Liability refers to the legal responsibility of owners or occupiers of land to compensate invited guests, licensees, children, passersby, or even trespassers for injuries arising from conditions on the property. Owners and occupiers include businesses that rent or lease office space, warehouses, or retail locations.

Because the rules governing premises liability vary from state to state, businesses should consult an attorney in the state where they operate if questions arise. It is also essential that a business confirms its insurance policy provides adequate coverage for this type of liability.

In general, the duty owed by an owner or occupier of land depends on the legal status of the person entering the property. Different duties apply depending on whether the individual is classified as a passerby, trespasser, invited guest, licensee, or child. For most businesses, the two classifications encountered most frequently are *licensees* and *invitees*.

A *licensee* is someone who enters the property with the possessor's express or implied permission, but for the licensee's own purposes rather than for the benefit of the possessor. When a licensee is present, the possessor generally has a duty to warn of dangerous conditions known to the possessor that create an unreasonable risk of harm and that the licensee is unlikely to discover. The possessor must also exercise reasonable care in the active operations of the business when the possessor knows the licensee is on the property. However, the possessor typically has no duty to inspect for defects or to repair known defects. These duties vary by state, but if the possessor breaches them and the licensee is injured, the possessor may be liable for resulting damages.

An *invitee* is a person who enters the premises in response to an express or implied invitation of the owner or occupier, such as customers or delivery personnel. The possessor owes invitees the same duties owed to licensees - warning of non-obvious dangers and exercising ordinary care in active operations - but also has an additional duty: to make reasonable inspections to discover dangerous conditions and to make them safe. This means the possessor must address not only known hazards but also hazards that *should have been known* through reasonable inspection.

This heightened duty places a significant burden on the possessor. As a result, if an invitee is injured due to a defect on the premises, the possessor will often be held liable unless the invitee was partially responsible for the injury or assumed the risk.

## Section Ten

# Employment Guidelines

Businesses face significant legal exposure throughout the employment relationship from recruiting and hiring, to day-to-day supervision, to the final stages of termination. Each phase presents potential hazards, and supervisors must understand how their decisions and actions can create or reduce liability for the company. Employment is essential to running a business, but it also brings obligations under federal, state, and local laws that govern workplace conduct, compensation, discrimination, safety, and employee rights.

Supervisors play a critical role in managing these responsibilities. Owners cannot oversee every interaction or activity within the company, so supervisors serve as the organization's eyes and ears. They must recognize the legal implications of their actions, understand the regulations that apply to their teams, and help maintain a workplace that is safe, fair, and compliant. A professional door and access systems company fosters a positive working environment by taking a proactive approach to employment related requirements and by treating employees with respect and consistency.

Work is more than a source of income; it is a central part of an employee's daily life and long term goals. Supervisors who understand that employees have personal needs, aspirations, and expectations are better equipped to support them while also meeting the company's legal obligations. By balancing compliance with empathy and professionalism, supervisors help create a workplace that protects the rights of employees and strengthens the overall health of the organization.

## Hiring

When an employer hires a worker, a legal relationship is created between the employer and the employee. This section explains the types of employment relationships that commonly arise and the circumstances under which they may change.

## At-Will Employment

In most states, employment is presumed to be **at-will**. Under an at-will relationship, either the employer or the employee may terminate the employment at any time, with or without cause, and without advance notice. Because neither party is contractually bound to continue the relationship, termination generally does not give rise to a breach-of-contract claim. The underlying policy is that it is not in the public interest to force an employer and employee to remain in a relationship when either party wishes to end it.

However, the at-will presumption can be altered, creating potential liability for the employer. State statutes or court decisions may impose limitations on at-will employment, and some states recognize exceptions that require termination only for cause. Employers should understand the laws of each state in which they operate to determine the nature of the employment relationship and their obligations under it.

The at-will relationship may also be modified by the conduct or agreements of the parties. Common exceptions to the at-will rule include:

- Employment for a definite term
- Written contracts that limit the grounds for termination

- Employer representations about discharge procedures on which the employee reasonably relied
- Terminations in violation of public policy
- Statutory protections
- Terminations that deviate from the terms of an employee handbook

If the employment relationship falls within one of these exceptions, an employer who terminates an employee without proper cause or in violation of agreed upon procedures may face claims for wrongful termination or breach of contract. The following paragraphs examine several of these exceptions in more detail.

### Employment for a Definite Term

*Employment for a Definite Term* is a recognized exception to the at-will relationship. In this arrangement, the employer agrees to employ the worker for a specific period, such as one week, one year, or until a stated date or project milestone. If the employer terminates the employee before the end of that period without a legally valid reason, the employee may have a claim for breach of contract. Whether such agreements must be in writing depends on state law, although many states allow definite-term employment contracts to be either written or verbal. Because the consequences of early termination can be significant, employers should be clear and deliberate when establishing any fixed-term employment arrangement.

### Employment by Contract

Another exception to at-will employment arises when the employer and employee enter into a written contract that limits the grounds for termination. These agreements typically outline the responsibilities of the parties, compensation terms, performance expectations, and the specific conditions under which employment may be ended. If the employer terminates the employee in a manner inconsistent with the contract's provisions, the

employee may bring a breach-of-contract claim. Written employment agreements are less common in hourly or field-based roles but may be used for managers, specialists, or employees with unique skills or responsibilities.

### Employer Representations Regarding Termination

The at-will relationship can also be modified when an employer makes representations about job security or termination conditions, and the employee provides additional consideration in reliance on those representations.

A well-known example is *Sides v. Duke University*, a North Carolina case in which the employee alleged she was told she could be discharged only for incompetence. Relying on that assurance, she moved from Michigan to North Carolina to accept the position. When she was later terminated for reasons unrelated to incompetence, the court held that her reliance on the employer's assurances created an enforceable contract, removing the relationship from at-will status.

This principle applies when an employee takes significant action - such as relocating, turning down other employment, or making substantial personal or financial commitments - based on the employer's promises. In such cases, those promises may form a binding employment contract, even if no formal written agreement exists.

### Employee Manuals

Employee manuals, handbooks, and personnel policies can also modify the at-will employment relationship. In some states, courts treat the statements in these documents as enforceable promises, effectively creating an implied employment contract. This occurs when the handbook contains language that a reasonable employee could interpret as guaranteeing certain rights or procedures in exchange for

continued employment. In these situations, the employer may be legally obligated to follow the policies in the manual, even if the employer did not intend to create a binding contract.

Employers can reduce this risk by including a clear and effective disclaimer stating that the handbook does not create a contract of employment. To be enforceable, a disclaimer generally must:

1. Use clear, straightforward language rather than legal jargon
2. Be prominently displayed, such as in bold type or larger font
3. Appear on the cover or first page of the manual
4. State that employment is at-will
5. Affirm that the employer may terminate employment at any time, with or without cause, regardless of statements elsewhere in the manual

To ensure employees are aware of the disclaimer, employers should require employees to sign or initial an acknowledgment confirming they have read and understand the handbook and its non-contractual nature. This acknowledgment becomes an important document if a dispute later arises over whether the handbook created enforceable rights.

## Employment Benefits

To attract qualified applicants and retain a stable workforce, many employers offer a range of employee benefits in addition to regular wages. These benefits can significantly enhance job satisfaction and help reduce turnover, which in turn lowers the costs associated with recruiting and training replacement workers.

Common benefits include:

- Vacation time
- Life insurance
- Health, dental, and vision insurance
- Paid holidays

- Sick leave
- Short-term or long-term disability pay
- Retirement plans

Providing benefits can be a substantial expense. Medical and related benefit plans often cost employers 25% or more of total payroll, even when employees share costs through deductibles, co-pays, or premium contributions. Despite the expense, a well-structured benefits program can strengthen employee loyalty, improve morale, and support long term workforce stability.

## Major Laws Affecting Employment

Modern employment relationships are shaped by a broad framework of federal laws designed to ensure fair treatment, protect workers' rights, and establish consistent workplace standards. These statutes govern areas such as wages and hours, family and medical leave, disability accommodation, immigration verification, and equal employment opportunity. Understanding the scope and requirements of these laws is essential for employers, supervisors, and business owners, both to maintain compliance and to create a lawful, productive work environment. The following sections summarize the major federal laws that most commonly affect day-to-day employment practices.

### Family and Medical Leave Act of 1993 (FMLA)

FMLA entitles eligible employees to take up to 12 weeks of unpaid, job-protected leave in a 12 month period for certain family and medical reasons. The purpose of the FMLA is to help employees balance work and family responsibilities by allowing reasonable leave for qualifying events, while also promoting the stability and economic security of families.

The FMLA applies to public employers including state, local, and federal agencies,

and to private employers that have 50 or more employees for at least 20 workweeks in the current or preceding calendar year and are engaged in commerce or activities affecting commerce.

To be eligible for FMLA leave, an employee must:

- Have worked for a covered employer for at least 12 months (not necessarily consecutive).
- Have worked at least 1,250 hours during the previous 12 month period.
- Work at a location where the employer has 50 or more employees within 75 miles (with limited exceptions).

Covered employers must grant unpaid leave for qualifying reasons, including:

- Caring for a newborn child or a child placed for adoption or foster care.
- Caring for a spouse, child, or parent with a serious health condition.
- The employee's own serious health condition that makes the employee unable to perform essential job functions.

During FMLA leave, the employer must maintain the employee's group health insurance under the same terms as if the employee had continued working. Upon return, the employee must be restored to the same or an equivalent position, subject to certain exceptions for key employees.

Although the FMLA provides important protections for employees, it also includes safeguards to prevent abuse and to ensure employers can manage leave responsibly.

Employees must provide 30 days' advance notice of the need for FMLA leave when the need is foreseeable, such as in the case of pregnancy or scheduled medical treatment. When the need for leave is not foreseeable, employees must provide notice as soon as practicable.

Employers may require employees to use accrued paid leave, such as sick leave or medical leave, concurrently with FMLA leave when the leave is taken for a qualifying serious health condition. Employers may also require employees to provide medical certification supporting the need for leave. This certification is obtained at the employee's expense. If the employer has reason to doubt the validity of the certification, it may require a second opinion from a physician of the employer's choosing, at the employer's expense. If the first and second opinions conflict, the employer and employee may jointly select a third physician to provide a binding determination, also at the employer's expense.

A common question concerns the employer's obligations while an employee is on FMLA leave. Employers must maintain the employee's group health insurance under the same terms as if the employee were actively working. The employee remains responsible for any portion of premiums they would normally pay.

Another frequent question is whether an employee must be restored to the same position after returning from leave. The FMLA requires employers to reinstate employees to the same or an equivalent position with equivalent pay, benefits, and working conditions.

There is a narrow exception for "key employees" - salaried employees who are among the highest paid 10% of the workforce. An employer may deny reinstatement to a key employee if restoring the employee would cause substantial and grievous economic injury to the business. In such cases, the employer must notify the employee of its intent to deny reinstatement.

The penalties for violating the FMLA are significant. Employers found in violation may be liable for:

- Lost wages, salary, benefits, or other compensation

- Actual monetary losses directly resulting from the violation
- Liquidated damages equal to the amount of actual damages, unless the employer proves the violation was made in good faith
- Attorney’s fees, expert witness fees, and court costs
- Equitable relief, including reinstatement or promotion

These remedies place a substantial burden on employers to comply fully with the Act.

Employees who believe their FMLA rights have been violated may file a complaint with the U.S. Department of Labor or pursue a private lawsuit within the applicable statute of limitations. If the Department of Labor becomes involved, it may investigate and pursue the claim on behalf of the employee.

The FMLA has far reaching implications for businesses of all sizes. Employers must evaluate their staffing, scheduling, and operational needs with the Act in mind and implement policies that comply with its requirements. Proper planning helps minimize disruption, reduce legal risk, and support employees during significant family or medical events. When applied effectively, the FMLA can contribute to improved family stability, greater job satisfaction, and enhanced productivity.

For additional guidance on the FMLA, employers and employees may contact the United States Department of Labor’s Wage and Hour Division, which administers and enforces the Act. Information is available through local Wage and Hour offices, on the Department of Labor’s website, or by consulting an attorney experienced in employment law. These resources can help clarify employer obligations, employee rights, and best practices for compliance.

## Americans with Disabilities Act

The Americans with Disabilities Act (ADA), enacted on July 26, 1990, prohibits discrimination against individuals with disabilities in employment, transportation, and access to public and commercial facilities.

The ADA contains two major components relevant to businesses:

1. Public Accommodation
2. Workplace Hiring and Treatment of Employees

This section provides a brief overview of both.

*Public Accommodation.* Title III of the ADA governs public accommodations. This term applies to privately owned businesses that provide goods or services to the public, including hotels, restaurants, theaters, convention centers, retail stores, banks, insurance offices, hospitals, medical and legal offices, museums, schools, daycare centers, and recreational facilities. It does not include multifamily housing (covered by the Fair Housing Act), private clubs, religious organizations, or public entities, which are regulated separately under Title II.

Title III took effect for existing public accommodations on January 26, 1992. These facilities must make reasonable modifications to policies, practices, and procedures, and must remove architectural and communication barriers when such removal is readily achievable. Examples include installing ramps and curb cuts, widening doorways, adding grab bars and raised toilet seats, installing visual alarms, providing accessible parking, and adding tactile or raised elevator controls.

If barrier removal is not readily achievable, businesses must provide alternative methods of access, such as curbside service, retrieving merchandise from inaccessible areas, or relocating services to accessible spaces.

Beginning January 26, 1993, the ADA imposed accessibility requirements on new construction of public accommodations and all commercial facilities (nonresidential buildings affecting commerce). Any covered building first occupied after that date must be readily accessible to and usable by individuals with disabilities.

Alterations to existing public accommodations or commercial facilities made after January 26, 1992, must also comply with ADA accessibility standards. Altered areas must be made accessible to the maximum extent feasible, and depending on the scope of the alteration, accessible paths of travel to restrooms, telephones, drinking fountains, and similar facilities may also be required.

Although ADA regulations provide detailed accessibility requirements, the ADA is not a building code. Local inspectors enforce state and local accessibility codes, but ADA compliance is enforced through civil actions in federal court. Courts may order accessibility modifications and may impose civil penalties. Penalties may reach up to \$75,000 for a first violation and up to \$150,000 for subsequent violations. Courts may also award attorney's fees.

Changes made in response to ADA penalties have created a strong incentive for businesses and building owners to improve accessibility, and this has significantly expanded the market for construction, remodeling, and retrofit work. To participate effectively in this market, builders and contractors must understand not only when the ADA applies but also the specific technical requirements for accessible design contained in the ADA Standards for Accessible Design. These standards govern elements such as accessible routes, door widths, ramps, hardware, controls, clearances, and many other features that affect usability for individuals with disabilities. A working knowledge of these specifications allows contractors to perform compliant work, reduce liability exposure, and meet the expectations of

customers who must maintain ADA compliant facilities.

*Workplace Hiring and Treatment of Employees.* The second major component of the ADA prohibits discrimination against qualified individuals with disabilities in all aspects of employment. This includes recruitment, job applications, hiring, promotion, compensation, benefits, leave, job assignments, training, layoffs, and termination. These examples are not exhaustive; the ADA applies broadly to nearly every stage of the employment relationship.

*A qualified individual with a disability is* someone who meets the skill, experience, education, and other job related requirements of a position and who can perform the essential functions of the job, with or without reasonable accommodation.

The ADA defines disability as a physical or mental impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment. The determination is made on a case-by-case basis. Certain conditions are expressly excluded from the definition of impairment, including current illegal drug use (though individuals in recovery are protected), substance use disorders resulting from current illegal drug use, and conditions such as compulsive gambling, kleptomania, and pyromania. Sexual orientation and consensual sexual behavior are also not considered impairments under the ADA.

The ADA prohibits employers from engaging in a wide range of discriminatory practices, including:

- Limiting, segregating, or classifying applicants or employees in ways that adversely affect opportunities because of disability.
- Using qualification standards, tests, or selection criteria that screen out individuals

with disabilities unless they are job related and consistent with business necessity.

- Failing to provide reasonable accommodations to qualified individuals unless doing so would impose an undue hardship.
- Administering prohibited medical examinations or making prohibited medical inquiries.
- Denying employment opportunities because an accommodation may be needed.
- Entering into contracts or arrangements with agencies, unions, benefit providers, or training programs that result in discrimination.
- Denying equal opportunities or benefits because an employee has a relationship or association with a person with a disability.
- Using employment tests that do not accurately measure the skills or abilities they are intended to measure due to an individual's sensory, manual, or speaking impairments, unless those skills are essential to the job.

A full review of all prohibited practices is beyond the scope of this text. However, two key areas warrant closer attention: **reasonable accommodation** and **medical examinations and inquiries**.

Employers have a duty to provide *reasonable accommodations* when they know or should know that an applicant or employee has a disability, unless doing so would create an undue hardship. Employers may not refuse to hire or promote a qualified individual simply because an accommodation may be required.

What qualifies as a reasonable accommodation is determined on a case-by-case basis. In general, a reasonable accommodation is any change to the work environment or to the way things are customarily done that enables a qualified individual with a disability to enjoy equal employment opportunities.

The ADA provides examples of reasonable accommodations, including modifying facilities to make them accessible, restructuring jobs, adjusting work schedules, acquiring or modifying equipment, modifying examinations or training materials, and providing qualified readers or interpreters. Importantly, the employer is not required to provide the best possible accommodation, only one that effectively meets the employee's job related needs.

Employers are not required to provide accommodations that would impose an undue hardship. Factors used to determine undue hardship include the nature and cost of the accommodation, the impact on business operations or customers, the employer's financial resources, and the size and structure of the business. An employer must be able to demonstrate a genuine, fact-based hardship; simply assuming an accommodation is too expensive or disruptive is not sufficient.

For *Medical Examinations and Inquiries*, the ADA places strict limits on when employers may ask health related questions or require medical examinations.

During the pre-offer stage, employers may not ask applicants about disabilities, medical conditions, workers' compensation history, or physical or mental impairments. However, if an impairment is obvious or voluntarily disclosed, and it appears relevant to job performance, the employer may ask the applicant to describe or demonstrate how they would perform essential job functions with or without accommodation.

After a conditional job offer, employers may require medical examinations, drug screenings, or health related questionnaires, provided these requirements are applied uniformly to all entering employees in the same job category. Selective testing of only certain applicants is prohibited.

For current employees, employers may not ask about disabilities or require medical examinations unless the inquiry is job-related

and consistent with business necessity. For example, when an employee shows signs of being unable to perform essential job functions safely.

The ADA applies to nearly all private employers with 15 or more employees engaged in industries affecting commerce. Courts interpret “affecting commerce” broadly, meaning that most employers meeting the 15 employee threshold are covered.

The employment provisions of the ADA are enforced through the courts and the Equal Employment Opportunity Commission (EEOC). Employees who believe their rights have been violated may file a charge with the EEOC or pursue litigation after meeting procedural requirements.

Available remedies for successful complainants include:

- Hiring or reinstatement
- Back pay
- Compensatory damages for emotional distress or career harm
- Punitive damages in cases of intentional discrimination
- Attorney’s fees and court costs

These remedies create strong incentives for employers to comply with the ADA’s requirements and to handle disability related issues carefully and consistently.

This summary provides only a brief overview of the ADA. Like the FMLA, the ADA is extensive and supported by detailed regulations and enforcement guidance. Employers seeking additional information should consult the Equal Employment Opportunity Commission (EEOC), which enforces the employment provisions of the Act, or speak with an attorney experienced in disability and employment law. These resources can help ensure that workplace policies and practices comply with current ADA requirements.

## Fair Labor Standards Act

The Fair Labor Standards Act (FLSA) sets nationwide standards for minimum wage, overtime pay, recordkeeping, and child labor, and it applies to most full-time and part-time workers in both the private and public sectors. Enforcement is handled primarily by the Wage and Hour Division of the United States Department of Labor for private employers, state and local governments, the United States Postal Service, and the Library of Congress, while the Office of Personnel Management oversees compliance for most other federal employees.

*Core Wage and Hour Requirements:* Covered non-exempt employees must receive at least the federal minimum wage and must be paid overtime at 1.5 times their regular rate for all hours worked over 40 in a workweek. Wages must be paid on the regular payday for the pay period covered. Employers may not make deductions, such as for cash shortages, required uniforms, or tools, that reduce an employee’s pay below the minimum wage or cut into overtime compensation.

*What the FLSA Does **Not** Regulate:* Although the FLSA establishes foundational wage and hour rules, it does not require employers to provide:

- Vacation, holiday, severance, or sick pay
- Meal or rest breaks
- Premium pay for weekend or holiday work
- Pay raises or fringe benefits
- Notice of discharge or a reason for termination

The Act also does not govern payment of wages or commissions beyond what it requires for minimum wage and overtime, though many states have separate wage payment laws. The FLSA does not limit the number of hours employees aged 16 or older may work, provided overtime rules are followed. Enterprise and Individual Coverage: Employees are covered by the FLSA if they

work for a covered enterprise or if they are individually engaged in interstate commerce.

A covered enterprise is a business under unified operation or common control for a common business purpose that meets at least one of the following:

- Has \$500,000 or more in annual gross sales or business volume
- Operates a hospital or an institution primarily caring for the sick, elderly, or disabled
- Is a public agency

Even if the enterprise itself is not covered, employees may still be individually covered if their work involves interstate commerce.

Examples include employees who:

- Work in communications or transportation
- Regularly use the mail, telephone, or electronic communications across state lines
- Handle, ship, or receive goods that have moved in interstate commerce
- Cross state lines in the course of their work
- Perform clerical, custodial, maintenance, or similar services for businesses engaged in interstate commerce

This broad definition means that most employees in modern workplaces fall under FLSA protections.

*Exemptions From Minimum Wage and Overtime:* Some employees are excluded from the FLSA's overtime requirements, or from both minimum wage and overtime, under specific statutory exemptions. These exemptions are narrowly interpreted, and employers must ensure that employees meet all criteria before classifying them as exempt. Detailed guidance is available from the U.S. Department of Labor's Wage and Hour Division.

*Child Labor Protections:* The FLSA's child labor rules are designed to protect minors'

educational opportunities and prevent them from working in jobs that could harm their health or well-being. These rules include:

- Restrictions on the hours minors under age 16 may work
- Lists of hazardous occupations, both agricultural and non-agricultural, that minors are prohibited from performing

These hazardous occupation orders are issued by the Secretary of Labor and are strictly enforced.

*Record Keeping Requirements:* The FLSA requires employers to maintain accurate records of wages, hours, and other employment information. Most of the required information is already kept in the normal course of business, and no specific format is mandated. Time clocks are not required.

For employees covered by minimum wage and overtime rules, employers must maintain records including:

- Employee's name, address, occupation, sex, and date of birth (if under 19)
- The hour and day the workweek begins
- Total hours worked each day and each workweek
- Total daily or weekly straight-time earnings
- Regular hourly rate for weeks in which overtime is worked
- Total overtime pay for the workweek
- All additions to or deductions from wages
- Total wages paid each pay period
- Date of payment and the pay period covered

Recordkeeping requirements differ for exempt employees, home-based workers, employees with unusual pay arrangements, and employees receiving lodging or other facilities as part of their compensation.

*Enforcement:* The Wage and Hour Division enforces the FLSA through investigators located throughout the United States. These

investigators have authority to review payroll and time records, interview employees and supervisors, examine employment practices, and recommend corrective actions when violations are found. Employers are expected to cooperate fully and to make changes necessary to achieve compliance.

*Penalties for Violations:* Penalties vary depending on the nature and severity of the violation. Willful violations of the FLSA may result in criminal prosecution and fines of up to \$10,000, and a second conviction may result in imprisonment. Child labor violations may result in civil penalties of up to \$15,000 per minor. Willful or repeated minimum wage or overtime violations may result in civil monetary penalties of up to \$2,500 per violation. These penalties are in addition to liability for back wages and liquidated damages.

## Immigration Reform and Control Act

The Immigration Reform and Control Act (IRCA), enacted in the late 1980s, requires all employers to verify the identity and employment authorization of every individual hired after November 6, 1986. Compliance is documented on the Form I-9, which must be completed for every employee regardless of citizenship, national origin, or ethnicity. Even employers who hire only United States citizens must complete and retain I-9 forms. Failure to do so can result in significant civil penalties.

A well-known early enforcement action illustrates the risk: a motel in Arlington, Virginia was fined \$10,000 for failing to maintain I-9 forms for ten housekeeping employees, all of whom were United States citizens by birth. The case demonstrated that penalties apply even when no unauthorized workers are involved. The violation was simply the failure to complete and retain the required forms.

Completing the Form I-9: The law requires that the actual I-9 form be completed. Having equivalent information elsewhere in a personnel file is not sufficient. Employers may

not shift responsibility to employees or discipline an employee for the employer's failure to comply. The form must be completed for all employees, whether full-time, part-time, permanent, or temporary. Job applicants do not complete the form, although some employers collect documentation early to avoid delays after hiring.

Employees must present acceptable, unexpired identification documents. Many individuals have difficulty locating required documents, such as a Social Security card or valid driver's license, so employers should be prepared to explain acceptable alternatives. Expired documents are not valid for I-9 purposes.

The form itself is simple and requires the employer to examine the employee's documents and attest that they appear genuine and relate to the employee. Employers are not required to make photocopies of the documents, although they may choose to do so consistently for all employees.

Acceptable documentation includes:

- A United States passport (satisfies both identity and work authorization)
- A state-issued driver's license or ID card and a Social Security card
- A Permanent Resident Card ("green card")

Naturalized citizens and lawful permanent residents may present a single document that establishes both identity and authorization, while United States citizens without a passport typically present two documents.

Timing and Retention: Employers have three business days from the employee's first day of work to examine documents and complete the employer portion of the I-9. Employers should not refuse to allow an employee to begin work because they forgot their documents on the first day, but must ensure the process is completed within the required timeframe.

There are no exceptions to the I-9 requirement. IRCA is a federal law that applies to all employers in the United States, regardless of size or industry.

## Other Major Statutory Laws Effecting Employment

Several additional federal laws prohibit discrimination in employment and protect individuals from unfair treatment in the workplace. The most significant include the *Age Discrimination in Employment Act (ADEA)*, *Title VII of the Civil Rights Act of 1964*, and the *Equal Employment Opportunity Act*. Each statute targets specific forms of discrimination and applies to defined categories of employers.

*Age Discrimination in Employment Act (ADEA):* The ADEA prohibits discrimination against individuals age 40 and older in all aspects of employment, including hiring, promotion, compensation, benefits, training, and termination. It also prohibits retaliation against individuals who assert their rights under the Act or participate in ADEA investigations or proceedings.

The ADEA applies to:

- Private employers with 20 or more employees
- State and local governments and their agencies
- Employment agencies
- Labor organizations
- Certain federal agencies

The Act is enforced by the Equal Employment Opportunity Commission (EEOC).

*Title VII of the Civil Rights Act of 1964:* Title VII prohibits discrimination in employment based on race, color, religion, national origin, or sex. Courts have long recognized sexual harassment as a form of sex discrimination under Title VII. The Act also prohibits retaliation against individuals who file

complaints, oppose discriminatory practices, or participate in Title VII proceedings.

Title VII applies to:

- Private employers with 15 or more employees
- State and local governments
- Employment agencies
- Labor organizations
- Certain federal employers

Title VII is also enforced by the EEOC.

*Equal Employment Opportunity Act:* The Equal Employment Opportunity Act strengthens and expands federal anti-discrimination protections. It prohibits discrimination based on race, color, religion, sex, national origin, age, disability, and other protected characteristics in seeking, obtaining, and maintaining employment. The Act also expanded the enforcement authority of the EEOC, giving it broader power to investigate complaints and pursue remedies.

*National Labor Relations Act (NLRA):* Protects employees' rights to engage in "protected concerted activity," whether or not a workplace is unionized. Employees have the right to discuss wages, hours, and working conditions; raise safety concerns; and act together to improve workplace conditions. Employers may not interfere with, restrain, or retaliate against employees for exercising these rights. This law frequently applies in disciplinary situations involving group complaints, social-media posts, or discussions about management practices.

*Uniformed Services Employment and Reemployment Rights Act (USERRA):* USERRA protects employees who serve in the uniformed services, including reservists and National Guard members. The Act guarantees reemployment rights following military service, prohibits discrimination based on military obligations, and requires that returning service members be reinstated with the same seniority, status, and benefits they would have earned had they not been absent. Employers must

also provide reasonable time for employees to report back to work after completing service.

*Pregnancy Discrimination Act (PDA) and Pregnant Workers Fairness Act (PWFA):* The PDA prohibits discrimination based on pregnancy, childbirth, or related medical conditions. Employers must treat pregnancy related limitations the same as other temporary medical conditions. The PWFA further requires employers to provide reasonable accommodations for pregnancy related needs unless doing so would impose an undue hardship. These accommodations may include modified duties, schedule adjustments, or temporary restrictions.

*Fair Credit Reporting Act (FCRA):* The FCRA regulates the use of background checks obtained from third-party consumer reporting agencies. Before obtaining a report, employers must provide written disclosure and obtain written authorization. If adverse action is taken based on the report, employers must follow specific notice procedures, including providing a copy of the report and a summary of rights. Improper handling of background checks is a common source of liability for employers.

*Worker Adjustment and Retraining Notification Act (WARN):* The WARN Act requires certain employers to provide 60 days' advance written

notice before a plant closing or mass layoff. The law generally applies to employers with 100 or more full-time employees and is triggered when a significant number of employees are affected. Failure to provide proper notice can result in liability for back pay and benefits for each affected employee.

*Genetic Information Nondiscrimination Act (GINA):* GINA prohibits employers from requesting, collecting, or using genetic information—including family medical history—in employment decisions. Employers must avoid questions that elicit genetic information and must handle any inadvertently received information in compliance with strict confidentiality rules. The Act also prohibits retaliation against individuals who assert their rights under GINA.

*Employee Polygraph Protection Act (EPPA):* The EPPA generally prohibits private employers from requiring or requesting employees or applicants to take lie-detector tests. Employers may not use polygraph results in employment decisions or retaliate against individuals who refuse testing. Limited exceptions exist for certain security-sensitive industries, but most employers, including door dealers, do not qualify. Violations can result in significant civil penalties.

## Section Eleven

# Employee Reviews

Employees at every level of an organization benefit from clear feedback about their performance. For a business to operate effectively, this feedback must be formalized and regularly scheduled. Formal performance appraisals are a key management tool for evaluating performance, strengthening motivation, and aligning individual contributions with company goals.

## Benefits of a Structured Appraisal System

A consistent appraisal process helps communicate company and departmental goals, build stronger working relationships, and improve productivity. It highlights strong performers, identifies employees who could improve with additional coaching or training, and flags those whose performance or attitude may not meet company expectations. Because objective appraisal systems focus on performance rather than personal characteristics, they help protect the company from discrimination claims and reinforce fairness across the workforce.

## Objectivity and Documentation

To be effective, a performance appraisal must be **objective**. Supervisors need accurate, ongoing records that reflect each employee's actual performance relative to job responsibilities and established goals. This information cannot be assembled the day before a review; it requires year-round observation, documentation, and communication. Supervisors should regularly inform employees of both strong performance and areas needing improvement. This approach ensures that the annual appraisal is fair, thorough, and meaningful.

Written appraisals should summarize the ongoing conversations between supervisor and employee throughout the year. Nothing in the appraisal should come as a surprise. If disciplinary action or termination becomes necessary, these records provide a sound and legally defensible basis for the decision.

Useful performance documentation reflects performance against known duties and goals, includes examples of effort and improvement, and remains objective.

Effective documentation is:

- Accurate - based on objective facts, records, and observed incidents
- Recent - limited to events within the appraisal period
- Behavioral - focused on what the employee does, not opinions about the employee
- Consistent - similar detail and standards applied across employees
- Complete - includes enough positive and negative examples to support conclusions

## Setting Performance Goals

To contribute effectively to organizational objectives, employees need clear job goals. They must understand what is expected of them and how their performance will be evaluated.

Goals should be objective, job-oriented, and tied to rewards and opportunities. Effective performance goals are:

- Job-related
- Measurable
- Observable
- Doable
- Agreed upon by supervisor and employee

- Prioritized
- Written
- Flexible

*Key Performance Indicators (KPIs)* are the specific, measurable results that show whether an employee is meeting expectations. KPIs translate broad goals into concrete metrics such as installation accuracy, sales conversion rates, schedule adherence, customer satisfaction scores, documentation accuracy, or safety compliance. KPIs can be tracked throughout the year to provide a glimpse of how the company and the employee are progressing towards goals.

Incorporating KPIs into the goals and review process helps supervisors evaluate performance consistently, reduces subjectivity, and gives employees a clear understanding of how success will be measured. Progress toward these goals and KPIs should form the basis for employee evaluations, and ultimately for compensation and other rewards. Employees are more likely to work toward goals when achievement is recognized and when there are meaningful consequences for failing to meet established standards.

## Performance Standards

Clear performance standards help ensure that every employee understands what successful performance looks like. These standards translate company expectations into specific, observable behaviors and measurable results. They provide a consistent foundation for setting goals, evaluating performance, identifying training needs, and recognizing achievement.

Key performance indicators (KPIs) may include technical quality, safety compliance, customer service, communication, accuracy of documentation, teamwork, time management, inventory levels, and adherence to company policies. By defining and applying these standards across all roles, supervisors can conduct fair, objective, and meaningful reviews

that support both individual growth and overall company performance. This section will discuss items to consider for performance standards and employee reviews.

The work of field personnel has a direct impact on safety, customer satisfaction, and the company's reputation. Employee reviews should therefore evaluate the quality and consistency of technical work, including adherence to manufacturer instructions, code requirements, and company procedures.

Technicians should be assessed on their ability to complete installations and service calls correctly the first time, maintain proper use of tools and PPE, and follow all safety protocols such as lockout/tagout. Reviews should also consider the accuracy of service tickets, clarity of job documentation, and the technician's professionalism at customer sites.

Because technicians represent the company in the field, their communication skills and care of company vehicles and equipment are essential components of overall performance.

Technicians and installers frequently work in pairs or coordinate with other trades on job sites. Reviews should assess an employee's ability to work cooperatively, communicate effectively with coworkers, and contribute to a safe and efficient jobsite environment. This includes sharing information, assisting team members when needed, and coordinating tasks to avoid delays or safety risks. Strong teamwork improves job quality, reduces the likelihood of errors, and supports a positive work culture.

Compliance with company policies and OSHA related procedures must be part of every performance review. Employees should be evaluated on their adherence to safety rules, proper use of PPE, completion of required training, and willingness to report incidents or near misses.

Reviews should also consider whether the employee maintains a clean and safe work

area, both in the shop and at customer sites. Consistent compliance reduces liability, prevents injuries, and reinforces a culture of safety throughout the organization.

Many employees interact directly with homeowners, builders, and commercial clients. Reviews should address the employee's ability to communicate clearly, respond promptly, and maintain professionalism in all customer interactions. This includes explaining issues and solutions in understandable terms, handling complaints appropriately, and demonstrating courtesy and patience.

Door dealers often operate on tight schedules, with service routes and installation windows that depend on punctuality and efficient time management. Employee reviews should evaluate reliability, adherence to schedules, and the ability to manage time effectively throughout the workday.

For field employees, route efficiency and responsiveness to schedule changes or emergency calls are important indicators of performance. Consistent attendance and dependable work habits help maintain workflow, reduce disruptions, and support the overall productivity of the team.

Reviews for schedulers and service coordinators should assess their ability to manage incoming calls, prioritize work orders, and build efficient daily schedules for technicians. Key performance indicators include accuracy in entering job information, clarity in communicating with customers, and responsiveness to changing conditions such as emergency calls or job delays.

Employee reviews should evaluate the accuracy and timeliness of digital documentation, proper use of mobile devices and software, and the employee's ability to follow established digital workflows if applicable.

Consistent and accurate documentation reduces administrative errors, improves

communication between departments, and ensures that customer records are complete and reliable. Effective use of technology also supports efficiency and professionalism in the field and office.

Inventory and purchasing staff ensure that technicians and installers have the materials they need to complete jobs efficiently. Reviews should evaluate accuracy in tracking inventory levels, timeliness in placing orders, and the ability to anticipate material needs based on upcoming work.

Employees in these roles should be assessed on their attention to detail, vendor communication, and ability to prevent shortages or overstock situations. Proper documentation, accurate receiving, and maintaining organized storage areas are essential components of performance.

Salespeople play a critical role in generating revenue and shaping customer perceptions of the company. Employee reviews should evaluate the salesperson's ability to meet or exceed sales goals, maintain an active pipeline, and follow up with leads in a timely and professional manner. Reviews should also consider product knowledge, accuracy of quotes, and the ability to explain options clearly to customers. Strong sales performance includes not only closing deals but also setting realistic expectations, coordinating effectively with installation and service teams, and maintaining positive long term customer relationships.

Commercial project managers oversee complex jobs that require coordination among multiple trades, adherence to construction schedules, strict compliance with specifications, and adaptability to changes. Reviews should evaluate the project manager's ability to plan and organize work, communicate effectively with general contractors and subcontractors, and ensure that materials, labor, and equipment are available when needed. Key performance indicators include meeting project deadlines, managing budgets,

resolving job site issues, and maintaining accurate documentation. Strong project managers anticipate problems, communicate proactively, and represent the company professionally on commercial job sites.

Ongoing training is essential in an industry with evolving technology, new product lines, and changing safety standards. Reviews should address the employee's progress toward certifications, completion of manufacturer training, and willingness to learn new skills. Employees who actively pursue professional development opportunities strengthen the company's technical capabilities and prepare themselves for future advancement. Recognizing and encouraging professional growth helps build a more skilled and confident workforce.

## Measuring Performance

Performance appraisal becomes easier and more accurate when you know what you are measuring and how to measure it. Breaking performance into measurable categories helps ensure objectivity, consistency, and fairness. It also reduces the influence of bias or discrimination.

Supervisors should determine which aspects of performance matter most. Effort reflects how work is performed; knowledge reflects technical or educational competence; results reflect outcomes.

Rating scales, numerical or descriptive, help measure these categories in a clear, understandable way. A rating system can help standardize evaluations and clarify expectations.

Two common models include:

### Effectiveness Scale

- Extremely effective performance
- Effective performance
- Ineffective performance

### Ability to Achieve Standard

- Makes extraordinary contribution
- Exceeds standard
- Achieves standard
- Below expectations
- Seriously below expectations

After measuring each category, supervisors should combine the results to form a complete picture of performance. Comparing employees' measurements helps place individual performance in context. It is essential to use the same standards and categories for all employees to maintain fairness and consistency.

## Conducting the Appraisal Meeting

The appraisal meeting is the most important part of the process. It is the supervisor's opportunity to communicate clearly, reinforce expectations, and motivate continued improvement. The tone and content of the discussion strongly influence how the employee receives the appraisal.

Many supervisors hold separate meetings for performance appraisal and salary decisions. When both are discussed together, employees tend to focus only on the raise.

The appraisal meeting should be scheduled in advance, with at least one week's notice. Supervisors should review the employee's job description, goals, past appraisals, incident logs, and documentation beforehand. Employees should be invited to rate their own performance, and any differences should be discussed openly.

A sound appraisal is:

- Job related
- Objective
- Goal focused
- Based on performance and behavior
- Free of personal likes or dislikes
- Free of stereotypes

- Neither overly strict nor overly lenient
- Not influenced by a single recent incident

An appraisal meeting provides an opportunity to coach employees for improvement. Even strong performers can benefit from discussions that highlight areas for improvement and growth, or outline steps that will help them prepare for future responsibilities or advancement.

## **Enhancing Performance with Employee Reviews**

A well-designed employee review process strengthens every part of a door dealer organization. When supervisors set clear goals, track performance objectively, and communicate openly throughout the year, reviews become more than an administrative requirement, they become a practical tool for developing people, improving safety and quality, and supporting long term business success.

Consistent standards, well-defined KPIs, and fair documentation help ensure that evaluations are accurate, defensible, and focused on job related performance. Most importantly, thoughtful appraisal meetings give supervisors the opportunity to coach, motivate, and guide employees toward growth, advancement, and stronger contributions to the company's mission.

## Section Twelve

# Incentives and Rewards

Incentives and rewards reinforce the behaviors and results a company wants to see more of. When employees understand what is valued and know that strong performance leads to meaningful recognition, they are more motivated to improve, take initiative, and contribute to organizational goals. Incentive programs, whether financial or non-financial, give employees clear targets to strive for, while rewards provide the reinforcement that encourages continued growth and achievement. Used thoughtfully, incentives and rewards complement the performance review process by linking measurable results to tangible outcomes.

Salary increases are a natural reward that virtually all employees hope and expect to receive. Employers should expect them as well, because retaining good employees is difficult without the promise of financial growth.

The amount of any increase is typically influenced by employee productivity, potential for improvement, inflation, industry standards, and the company's available resources. However, salary increases are only one form of reward. Many other incentives can motivate employees and reinforce strong performance.

A structured employee review process provides the foundation for determining merit based increases. When performance goals and Key Performance Indicators (KPIs) are clearly defined at the beginning of the review period, supervisors can evaluate employees against objective, job related standards. Review scores, based on measurable results, documented performance, and demonstrated behaviors, and create a fair and consistent basis for awarding raises.

Employees who meet or exceed their KPIs, show improvement, or contribute significantly to company goals can be recognized with

higher merit increases. Conversely, employees who fall short of expectations may receive smaller increases or none at all, reinforcing the importance of performance and accountability.

When an employee achieves desired results and meets established goals, the outcome should be a win-win situation. In addition to periodic appraisals and merit increases, many companies use pay-for-performance programs to strengthen the connection between results and rewards. These programs take several forms:

**Profit Sharing** - Many companies offer profit sharing plans as part of a retirement or compensation package. Performance based metrics determine how much profit is allocated to the plan. While profit sharing may not have the same immediate impact as individual incentives, it remains a widely used and valued form of additional compensation.

**Gain Sharing** - Gain sharing rewards a group, such as a department, division, or the entire company, for improving performance. The key feature is that everyone in the group shares in the gains from increased productivity or profitability. Unlike profit sharing, gain sharing typically focuses on factors employees can directly influence, such as productivity, quality, or customer satisfaction. Successful gain sharing plans rely on employee participation in making improvements and contributing to company objectives.

**Individual Incentive Plans** - These plans reward the performance of individual employees. Examples include piece-rate pay for completed installations or service work, or bonuses tied to additional revenue generated by the employee. The primary advantage of individual incentives is the direct connection

between an employee's performance and the reward received.

**Non-Financial Recognition Programs** - Not all meaningful rewards are monetary. Many employees respond strongly to recognition that highlights their contributions. This can include public acknowledgment at meetings, "employee of the month" programs, certificates of achievement, or recognition boards in the shop. Non-financial recognition reinforces desired behaviors, boosts morale, and helps build a positive culture without increasing payroll costs.

**Spot Bonuses and On-the-Spot Rewards** - Spot bonuses reward exceptional performance in real time, such as resolving a difficult service call, preventing a safety incident, or going above and beyond for a customer. These small, immediate rewards (cash, gift cards, extra time off, etc.) reinforce the connection between strong performance and positive reinforcement more directly than annual raises alone.

**Safety Incentive Programs** - Because door and operator work involves significant safety exposure, many companies use incentives tied to safe behavior. These may include rewards for completing safety training, maintaining incident-free periods, or demonstrating exemplary safety practices in the field. Safety incentives reinforce the company's commitment to OSHA compliance and help reduce injuries and claims.

**Attendance and Reliability Incentives** - Consistent attendance and punctuality are critical in a scheduling driven business. Some companies reward employees for perfect attendance, minimal call offs, or consistent on time performance. These incentives help stabilize daily operations and reduce disruptions to service routes and installation schedules. One example might be a lump sum payout of unused sick time at the end of the year.

**Training and Skill-Development Incentives** - Incentives tied to professional development, such as earning IDEA certifications, encourage employees to build their skills. For example, establishing set hourly rate increases for each new certification a technician may earn. These rewards support long term workforce development and help the company maintain a competitive edge.

**Team-Based Recognition** - Beyond formal gain sharing plans, many companies use team-based rewards to reinforce collaboration. This might include celebrating department achievements, recognizing successful project completions, or rewarding teams that meet quality or customer satisfaction targets. Team-based recognition strengthens cooperation and reduces siloed thinking.

**Retention and Longevity Rewards** - Retention bonuses, anniversary awards, or milestone recognitions help reinforce loyalty and reduce turnover. These rewards acknowledge long term commitment and can be especially valuable in skilled trades where experienced technicians are difficult to replace.

Incentives and rewards strengthen the connection between employee performance and organizational success. When employees understand that strong results, consistent improvement, and adherence to company standards lead to meaningful recognition - whether through salary increases, merit-based raises, or other incentive programs - they are more motivated to excel. A thoughtful mix of financial and non-financial rewards reinforces desired behaviors, supports retention, and encourages employees to take ownership of their growth. By aligning incentives with the performance review process and clearly defined KPIs, companies create a fair, transparent system that drives continuous improvement and helps build a committed, high-performing workforce.

## Section Thirteen

# Discipline and Termination

Discipline is not intended to be punishment. It is a structured, corrective process designed to help a struggling employee recognize a problem and take steps to avoid more serious consequences. Effective discipline uses clear expectations, coaching, and progressive steps to address violations of company rules or other unacceptable behavior. The purpose is to correct performance or conduct issues so the employee and the rest of the workforce can succeed going forward.

Discipline should never be used to express personal frustration, target an employee unfairly, or retaliate against someone for exercising legal rights. It must remain focused on the behavior, not the individual, and must always be administered in a professional, objective manner.

Employees and supervisors must understand the company's work rules and disciplinary procedures before discipline becomes necessary. These expectations should be communicated during orientation and reinforced through the employee handbook and ongoing training.

When a rule is violated, the response should be timely, so the employee clearly understands the issue and its impact. However, discipline should only be used when a genuine violation has occurred and after the facts are confirmed. Addressing issues promptly and accurately helps prevent misunderstandings and supports a culture of accountability.

Discipline must be applied consistently across the organization and must be proportional to the seriousness of the offense. Supervisors should consider several factors when determining the appropriate response: the nature and severity of the violation, the number and frequency of prior offenses, the employee's overall performance record, any

mitigating circumstances, and the potential impact on team morale.

Except for the most serious violations, employees should be given a reasonable opportunity to correct their behavior. Immediate discharge should be reserved for severe, company defined offenses such as theft, gross insubordination, harassment, violence, or unsafe work practices. Even then, only after following established procedures and verifying the facts. Consistent application of these standards helps ensure fairness and reduces the risk of claims of discrimination or unequal treatment.

For most violations that do not warrant immediate discharge, the first step is a private meeting between the supervisor and the employee. The purpose of this meeting is to explain the specific rule or expectation that was violated, discuss the impact of the behavior, and ensure the employee understands what must change. The supervisor and employee should work together to develop a clear corrective action plan that outlines the steps the employee will take to improve and the support the supervisor will provide. This collaborative approach reinforces fairness and gives the employee a meaningful opportunity to correct the issue.

A company should consider adopting a progressive discipline policy to ensure consistency and fairness. Under this approach, the first offense typically results in a verbal warning or counseling session. A second offense may lead to a written warning, and a third offense may result in suspension or layoff without pay. Continued violations or failure to improve may ultimately lead to termination. Progressive discipline provides employees with clear notice of problems, opportunities to improve, and an understanding of the

consequences of continued misconduct or poor performance.

An oral warning or counseling meeting alerts the employee promptly that a performance or conduct issue must be addressed. The tone and approach of this meeting are critical. The employee should be given an opportunity to explain their perspective, as there may be relevant circumstances the supervisor is not aware of. The supervisor must focus on the specific behavior, not the employee's character, and avoid emotional or accusatory language. The goal is to ensure the employee understands the seriousness of the issue, feels they are being treated fairly, and knows exactly what is expected going forward.

Written warnings are typically the second step in a progressive discipline system and should be issued only when there is clear cause. They become part of the employee's official record and must be completed objectively. A written warning should identify the specific rule or expectation violated, the date, time, and location of the incident, and any relevant facts. It should also include a corrective action plan developed with the employee.

Both the supervisor and employee should sign the warning to acknowledge that the discussion occurred. A copy should be provided to the employee, and another placed in the personnel file. Supervisors must follow up on the corrective action plan to ensure accountability and support improvement.

Employees may have the right to request a witness or representative during disciplinary meetings, depending on state law, company policy, or union status. Even when not required, allowing a witness can increase transparency and reduce claims of unfair treatment. Employees should also be informed of their right to review their personnel file where required by law.

Suspension or layoff without pay is generally the third step in progressive discipline and should be used only when prior warnings have

not resulted in improvement or when the offense is serious enough to warrant a stronger response. A suspension gives the employee time to reflect on the seriousness of the situation and signals that further violations may result in termination.

At the end of the suspension period, the supervisor should meet with the employee to review expectations, discuss whether additional corrective action is needed, and document the outcome of the meeting.

Termination is the final step in the disciplinary process and should be reserved for the most serious or repeated violations. When possible, termination should occur only after progressive steps have been followed and documented.

Even in cases where immediate discharge is permitted the employer must investigate the facts thoroughly before making a decision. All findings should be documented, and the company must follow its established termination procedures, including preparing required paperwork and ensuring the termination meeting is documented and signed by those present. Careful documentation and adherence to procedure help protect the organization from legal challenges and demonstrate that the decision was fair, consistent, and based on legitimate business reasons.

In cases involving serious allegations, such as harassment, violence, theft, or safety violations, placing an employee on paid investigatory leave may be appropriate. This protects the integrity of the investigation, reduces workplace tension, and prevents premature disciplinary action. Investigatory leave should be used sparingly and documented clearly.

Even with all the precautions that should accompany any discharge decision, most employees in the United States are employed at will, meaning they can be terminated at the employer's discretion for any lawful reason, or for no stated reason at all, unless a contract,

collective bargaining agreement, or specific employer promise limits that right.

Because of this, supervisors must be careful not to make assurances that could be interpreted as guarantees of continued employment. Statements such as “you will not be terminated if you improve” or “your job is safe as long as you fix this issue” can unintentionally create an implied contract and undermine the organization’s at-will status.

Instead, supervisors should focus on expectations, required improvements, and the consequences of failing to meet those expectations, without suggesting that employment is guaranteed. Clear communication, consistent documentation, and avoidance of unintended promises help protect the company while still giving employees a fair opportunity to correct performance or conduct issues.

## Terminating Employment

Termination is sometimes an unavoidable outcome in the employment relationship, but it is also one of the most legally sensitive actions an employer can take. Because termination decisions can expose the company to claims of wrongful discharge, discrimination, or retaliation, employers must take proactive steps to minimize risk and ensure that every decision is fair, well documented, and based on legitimate business reasons.

Terminations based on poor performance or misconduct carry the greatest risk of legal challenge. Employees who are discharged for these reasons may claim that the stated justification is merely a pretext for unlawful discrimination or retaliation. Federal and state laws, as well as public policy protections, prohibit termination based on protected characteristics, protected activities, or an employee’s exercise of legal rights. For this reason, employers must ensure that the stated reason for termination is accurate, supported

by evidence, and unrelated to any protected factor.

When termination is based on poor performance, the employer must be able to demonstrate that the decision was reasonable and supported by a clear record. This includes maintaining copies of performance reviews, written warnings, counseling notes, and any other documentation showing that the employee was informed of deficiencies and given a meaningful opportunity to improve. Documentation should be factual, objective, and signed by the employee to acknowledge receipt. A consistent record of communication and corrective action is one of the strongest defenses against claims of wrongful termination.

Documentation and disciplinary practices must be applied consistently across all employees. If one employee is warned or counseled for a particular deficiency, other employees who exhibit the same issue should receive similar treatment. Inconsistent discipline can create the appearance of favoritism or discrimination, even when none was intended.

When termination is based on misconduct, the employer must conduct a thorough and impartial investigation before making a decision. This includes interviewing witnesses, reviewing relevant documents or video footage, and giving the employee an opportunity to explain their side of the story. The employer should evaluate the credibility of the information collected and ensure that the decision is based on verified facts rather than assumptions or incomplete information. Once the investigation is complete, the employer should carefully review the findings, determine whether termination is appropriate under company policy, and document the rationale for the decision.

Any disciplinary or termination decision must be evaluated for potential retaliation risk. If the employee recently reported a safety concern, filed a workers’ compensation claim, requested FMLA leave, or raised concerns about

discrimination, the employer must ensure the action is based solely on documented performance or conduct issues. Retaliation claims are among the most common and costly employment-law claims.

Discipline and termination decisions are only as fair as the supervisors who carry them out. Training supervisors on company policies, anti-discrimination laws, documentation standards, and how to conduct difficult conversations helps ensure consistent application across departments. Inconsistent discipline even when unintentional is one of the most common sources of wrongful-termination claims.

Termination triggers several administrative obligations. Employers must comply with state laws regarding timing of final paychecks, payout of unused vacation (where required), continuation of benefits, and COBRA notices. A standardized exit checklist helps ensure compliance and reduces the risk of administrative errors that can lead to claims.

For terminations involving misconduct or risk, employers should have procedures for disabling system access, retrieving company property, and securing tools, keys, badges, and digital credentials. These steps protect company assets and reduce the risk of post-termination issues.

Supervisors should know what they can and cannot say when contacted for references. Many companies adopt a neutral reference policy - confirming only dates of employment and job title - to reduce liability. Clear internal guidelines help prevent inconsistent or inappropriate disclosures.

## Section Fourteen

# Sexual Harassment in the Workplace

Sexual harassment in the workplace is a serious issue that affects employee safety, morale, and productivity. Employers have a legal and ethical responsibility to maintain a work environment free from harassment, intimidation, and discrimination. Federal and state laws require employers to take reasonable steps to prevent harassment, respond promptly to complaints, and protect employees from retaliation when they report concerns.

Understanding what constitutes sexual harassment, and how power dynamics, workplace culture, and individual behavior contribute to it, is essential for creating a respectful and compliant workplace. The following section explains the forms harassment can take, how it is defined under federal regulations, and the standards employers must follow to address it appropriately.

Sexual harassment often stems from an imbalance of power, whether real or perceived. In some cases, the harasser holds actual authority over the victim, such as the ability to influence hiring, firing, promotions, or pay decisions. In other situations, harassment occurs between employees of equal rank, where the harasser attempts to gain power by embarrassing, intimidating, or exerting control over the victim. Regardless of the relationship, sexual harassment is a misuse of power that undermines dignity, safety, and equal opportunity in the workplace.

Sexual harassment can take many forms. It may involve unwanted physical contact, pressure to engage in sexual activity, sexual jokes or comments, intrusive questions about a

person's private life, or displaying sexually explicit or offensive materials in the workplace.

Harassment may be verbal, physical, visual, or digital, and it can occur in person, through email or text messages, or on social media. What matters is the effect of the behavior - not the intent of the person engaging in it.

The Equal Employment Opportunity Commission (EEOC) provides a widely accepted definition of sexual harassment under 29 C.F.R. § 1604.11(a). According to this regulation, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when any of the following conditions are met:

1. *Submission to the conduct is made, explicitly or implicitly, a condition of an individual's employment.*
2. *Submission to or rejection of the conduct is used as the basis for employment decisions affecting the individual.*
3. *The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.*

These criteria cover both **quid pro quo harassment**, where job benefits or consequences are tied to sexual conduct, and **hostile work environment harassment**, where the overall atmosphere becomes abusive or discriminatory. The standard focuses on whether the behavior is unwelcome and whether it creates a work environment that a reasonable person would find hostile or offensive.

Most people assume sexual harassment occurs mainly in large corporations or traditional office settings, but it is often more prevalent in workplaces where men significantly outnumber women and where women enter roles historically held by men. In trades such as construction, manufacturing, and field service work, women may be especially vulnerable because they are in the minority and may lack peer support. The United States Department of Labor has long noted that women make up only a small percentage of workers in many construction related occupations, which means employers in these industries must be particularly vigilant in preventing harassment, responding promptly to concerns, and fostering a culture of respect.

There is a common misconception that a person must tell the harasser to stop before the conduct becomes unlawful. Under federal law, this is not required. Harassment is unlawful if it is unwelcome, regardless of whether the victim verbally objects or confronts the harasser. Many victims do not feel safe speaking up directly, especially when the harasser is a supervisor or someone with influence over their job. While telling someone to stop may help clarify that the conduct is unwelcome, it is never a legal prerequisite for protection.

Once an employer becomes aware of potential harassment, whether through a complaint, observation, or other means, it must take prompt action to investigate and correct the behavior. The responsibility to prevent and correct harassment rests with the employer, not the victim, and no employee should be expected to confront a harasser as a condition of receiving help.

The impact of sexual harassment extends far beyond financial costs or legal exposure. The personal toll on victims can be severe and long lasting. Individuals who have experienced workplace harassment often report fear, anxiety, loss of confidence, sleep disturbances, physical symptoms, and significant emotional distress. Some victims develop depression, substance-use issues, or other serious psychological effects. These consequences underscore the importance of prevention, early

intervention, and a workplace culture that does not tolerate harassment in any form.

Courts generally recognize two primary forms of sexual harassment. The first is **quid pro quo harassment**, which occurs when submission to sexual advances or conduct is made a condition of employment, promotion, or other job benefits. The second is **hostile work environment harassment**, which arises when unwelcome conduct based on sex becomes so severe or pervasive that it alters the conditions of employment.

To establish a hostile work environment claim, a claimant must show that the harassment was unwelcome, occurred because of the individual's sex, affected the employee's ability to work or created an abusive environment, and that the employer knew or should have known about the conduct and failed to take effective corrective action.

A well-known construction industry case, *Hall v. Gus Construction Co.*, 842 F.2d 1010 (8th Cir. 1988), illustrates how hostile work environment harassment can occur in non-office settings. Three women employed as flaggers on road construction sites were subjected to repeated verbal abuse, vulgar language, explicit sexual comments, and escalating physical misconduct by male coworkers. Although the foreman made a brief attempt to intervene, the harassment continued and intensified, including unwanted touching, exposure, and invasive behavior. The court found that the employer had knowledge of the conduct and failed to stop it, awarding the women damages and attorney fees. Importantly, the court emphasized that the traditionally rough culture of construction sites does not excuse or justify harassment; employers remain fully responsible for maintaining a safe and respectful workplace.

Employers must take clear, proactive steps to prevent sexual harassment and to protect the organization from liability. The first priority is sending unmistakable signals about expectations. Employers should address sexual harassment directly in employee handbooks, orientation materials, and

supervisor training. A written policy must clearly state that harassment will not be tolerated and that all employees, especially supervisors, are responsible for maintaining a respectful workplace. Employees take their cues from leadership; if management treats the issue casually or dismissively, employees are more likely to do the same.

Employers must also establish and communicate procedures for reporting and responding to sexual harassment claims. Employees should have multiple channels for reporting concerns, including options that bypass a direct supervisor if that person is involved or if the employee feels uncomfortable.

All complaints must be documented, handled confidentially to the extent possible, and addressed promptly. Employers must apply sanctions consistently and fairly when harassment is substantiated. A well-designed reporting and response system demonstrates that the company takes complaints seriously and is committed to protecting employees.

Corrective action is essential. Many successful lawsuits arise not from the harassment itself, but from an employer's failure to act once notified. Every complaint, formal or informal, must trigger a prompt, thorough investigation conducted through appropriate personnel channels. Findings and actions taken should be documented carefully.

Retaliation against anyone who reports harassment is strictly prohibited and is one of the most common bases for legal claims. Any adverse action taken shortly after a complaint, such as demotion, reassignment, or termination, creates significant legal risk unless it is clearly justified and well-documented.

Every company must have a written sexual harassment policy. At a minimum, the policy should state that unlawful harassment will not be tolerated; that all reports will be investigated; that substantiated harassment will result in disciplinary action; and that employees must report concerns to a designated individual.

The policy should also provide an alternative reporting path if the employee is uncomfortable approaching their supervisor or the designated contact. Anyone who receives a report must forward it to the appropriate officials. The policy must also state clearly that retaliation is prohibited and that employees are never required to report harassment to the person they believe is involved.

In addition to formal procedures, employers and supervisors must be trained to recognize signs of potential harassment. Warning signs may include the posting or sharing of sexually explicit images or cartoons, pranks with sexual overtones, a workplace culture where vulgar language or inappropriate touching is normalized, or any form of retaliation against employees who raise concerns.

Supervisors should also pay attention to patterns such as persistent tension between male and female employees, undesirable assignments consistently given to women, repeated unwanted flirting or sexual comments, or requests from women to avoid certain crews or individuals. These behaviors may indicate underlying issues that employees are hesitant to report directly.

Employers have legal responsibilities under both federal and state law to prevent sexual harassment and to respond promptly when concerns arise. Title VII of the Civil Rights Act prohibits harassment based on sex, and many states impose additional requirements, such as mandatory written policies, annual training, or specific reporting procedures. These laws make clear that employers must take reasonable steps to prevent harassment, correct it when it occurs, and ensure that employees are not subjected to retaliation for reporting concerns. Understanding these obligations helps supervisors recognize that harassment prevention is not optional—it is a legal duty.

Supervisors carry a heightened level of responsibility because their actions can create direct liability for the company. When a supervisor engages in harassment that results

in a tangible employment action, such as termination, demotion, or a loss of pay, the employer is typically held automatically liable.

Even when no tangible action occurs, the employer may still be liable unless it can show that it exercised reasonable care to prevent and correct harassment and that the employee unreasonably failed to report the behavior. This standard underscores the importance of supervisors modeling appropriate conduct, responding promptly to concerns, and ensuring that all employees understand the reporting process.

Harassment is not limited to sexual conduct. Federal law prohibits harassment based on any protected characteristic, including sex, gender, gender identity, sexual orientation, race, color, religion, national origin, age, disability, genetic information, and pregnancy. Many states extend these protections further to include categories such as marital status, military status, ancestry, or political affiliation.

The same standards that apply to sexual harassment apply to harassment based on any of these protected classes. Unwelcome jokes, slurs, stereotypes, intimidation, exclusion, or other offensive conduct directed at a protected characteristic can create a hostile work environment even if no sexual behavior is involved.

Employees do not need to belong to the protected class to be affected; witnessing discriminatory behavior can also contribute to a hostile environment. Employers must ensure that all forms of unlawful harassment are prohibited and addressed promptly, not just sexual harassment.

Preventing harassment also depends on the behavior of coworkers who witness inappropriate conduct. Bystander intervention is an increasingly important part of harassment prevention efforts. Employees who observe concerning behavior should feel empowered to interrupt it, report it, or support the affected coworker. Encouraging employees to speak up helps create a culture where harassment is

less likely to occur and where inappropriate behavior is addressed before it escalates.

Harassment can occur through digital communication just as easily as in person. In today's workplace, inappropriate conduct may take the form of unwanted text messages, emails, group chat comments, social media interactions, or misconduct during video meetings. Remote and hybrid work environments create additional risks, including unprofessional behavior on camera or misuse of digital tools. Employers must make clear that the company's harassment policy applies equally to all forms of communication, whether in person or electronic.

Employees often hesitate to report harassment because they fear embarrassment or retaliation. Employers must protect confidentiality to the extent possible, while also explaining that complete secrecy cannot be guaranteed because information may need to be shared with those responsible for investigating and resolving the complaint. Limiting information to individuals with a legitimate need to know helps protect privacy and encourages employees to come forward.

Employees who report harassment may be anxious, emotional, or hesitant to share details. A trauma informed response helps supervisors handle these conversations appropriately. This includes listening without judgment, avoiding dismissive or minimizing language, and refraining from asking leading or inappropriate questions. A supportive, respectful approach helps ensure that employees feel safe reporting concerns and improves the quality of the information gathered during the investigation.

During an investigation, employers may need to take interim steps to protect the reporting employee. These measures may include separating employees, adjusting schedules, or temporarily reassigning work. Such actions must be taken carefully to avoid appearing punitive toward the complainant. Interim measures should be clearly documented, limited to what is necessary, and communicated in a way that reassures the

employee that the company is committed to maintaining a safe environment.

A thorough investigation requires clear and consistent documentation. Employers should record who was interviewed, what information was provided, what evidence was reviewed, and what conclusions were reached.

Documentation should be factual, objective, and free of personal opinions. Courts often evaluate the quality of an employer's investigation when determining liability, so maintaining accurate records is essential.

After an investigation is completed, employers should follow up with the reporting employee to ensure that no retaliation has occurred and that the workplace feels safe. This step is often overlooked, but it is critical for demonstrating good faith compliance and for preventing future issues. Follow up also reinforces the company's commitment to maintaining a respectful and harassment-free environment.

Employers must respond promptly and appropriately to any employee who reports harassment or expresses concern about inappropriate behavior. Ignoring complaints or treating the issue lightly exposes the company to immediate legal risk and undermines employee trust. Society and the legal system no longer tolerate dismissive attitudes toward sexual harassment. A safe, respectful workplace is a fundamental expectation, and employers must take every report seriously and act decisively to address it.



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