

# HR Tips from Express



## Race Discrimination

Learning from other companies' mistakes can help you know what to avoid when it comes to race discrimination. These case studies share real-life examples of mistakes that managers have made regarding race discrimination. By knowing these pitfalls and following the tips provided by Express, you can be assured that you don't discriminate. Contact Express Personnel Services for more information on this and other HR issues.

## Discrimination through Hiring Tests

An employer used standard testing devices as part of its hiring process. They also required all applicants to have a high school diploma. Although the tests and requirements appeared neutral, they were found to exclude a specific race that was capable of performing the job.

**What can we learn from this?** As an employer it is important that you ensure all testing devices are validated and job related. Standard tests or requirements that do not specifically apply to the job could create a disparate impact.

## Disparate Treatment

After two employees showed up late for work, one received a verbal warning and the other was terminated. It just so happened that the one who was terminated was in a protected category based on race. Neither party had received any prior warnings or disciplinary action. The employer was found to be guilty of discrimination.

**What can we learn from this?** When you intentionally treat one racial group less favorably than another, it is considered disparate treatment and is illegal.

## Class Action Lawsuit Results in \$50 Million in Punitive Damages

An employer paid out \$50 million in punitive damages for continuous racial discrimination and harassment by the employees' direct supervisor. Evidence showed that the employees complained to senior management and the human resources department and neither took steps to prevent harassment or discrimination. They did not provide training to managers, supervisors or contractors, and they failed to take action once the harassment was reported.

**What can we learn from this?** Employers are liable for the actions of their managers/supervisors if they knew or should have known about the behavior and fail to act to prevent or stop the behavior from occurring. As an employer, it is important that you provide training to your management team and take immediate action upon learning of allegations of harassment and/or discrimination. Also be aware that in California individuals who engage in harassment can be held personally liable.