

BAKER DONELSON  
BEARMAN, CALDWELL & BERKOWITZ, PC

# Yesterday is Today:

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## HR Practices in the Post-“Mad Men” World

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# HR Practices in the Post-“Mad Men” World

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- Overview

- Comments and actions that were once out in the open have gone underground

- Sexual harassment
- Substance and alcohol abuse
- Inappropriate conduct

- Good HR and management practices haven't changed

- Proper terminations
- Fostering positive relationships and retaining talented employees



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HR Practices in the  
Post-“Mad Men” World  
Pregnancy Discrimination

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- Pregnancy Discrimination
- Recent EEOC panel stated that pregnancy discrimination still widespread
  - EEOC has increased the number of cases it has filed against employers for pregnancy bias, reaching 20 cases last year, up from 19 in 2010
  - EEOC charges filed peaked at about 6,300 in 2008 and fell to about 5,800 in 2011

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- Pregnancy Discrimination



- EEOC reached a \$1.64 million settlement reached with Akal Security Inc., the largest provider of contract security services to the federal government, in 2010.
- The agency claimed Akal had a national policy “of forcing its pregnant employees, working as contract security guards on U.S. Army bases, to take leave and discharging them because of pregnancy.”

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- Addressing Pregnancy Discrimination
  - Interview Questions – Head off with training
  - Reasonable accommodations for pregnant employees
  - Americans with Disabilities Act – Temporary conditions may apply to pregnancy

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Substance and alcohol abuse

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- Substance and alcohol abuse
  - Employee Assistance Programs
    - Providing employees with treatment options
    - Approach cautiously – don’t expose yourself to liability while trying to help
    - ADA – perceiving someone as disabled
  - Tennessee Drug-Free Workplace Act
  - Train supervisors and employees to recognize issues and react appropriately



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Inappropriate behavior

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- Inappropriate behavior
  - Try and make clear what is inappropriate
    - Objective not subjective
  - Lead by example
  - Enforce policies
  - Foster respectful workplace

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## Sexual Harassment

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- Sexual harassment
  - Properly respond to complaints
    - Always take complaints seriously – investigate
    - Train employees on who they can go to
    - Act on the information
    - Watch out for retaliation
    - Follow-up with the complainant

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## Proper Terminations

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- Proper Terminations
  - Have an established, written procedure
  - Build “paper fortress” – analyze reasons for termination thoroughly in writing
    - Escalating discipline
    - Terminate respectfully
    - Have multiple company representatives
- Terminating properly avoids lawsuits later!



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Retaining talented employees

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- Even if “that’s what the money is for,” thanking employees is important for morale and retention
- What employees look for in bosses hasn’t changed much since 1960
  - “Good Bosses Are The Same Today As They Were In 1992” by Robert I. Sutton, PhD - <http://www.fastcompany.com/1825035/good-bosses-are-the-same-today-as-they-were-in-1992>

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