

The Do's and Don'ts of Workplace Searches

By: Beth Lincow Cole

<http://www.humanresourceattorney.com>

When it comes to searches in the workplace, the law must walk a delicate balance between an employee's reasonable expectation of privacy and an employer's justification for a search. The stronger the reason for a search – say, a report that an employee has a dangerous weapon – the better your case for conducting a search.

Employers faced with having to conduct a search should keep the following in mind:

DO search only when necessary – You should have a legitimate business reason to conduct a search.

DO verify first – Use other sources to eliminate possibilities before you search. For example, if an employee accused of theft was not working on the day of the theft, you could discover this by reviewing time cards and schedules prior to conducting a search.

DO have a search policy in place – Advising employees in advance that certain areas may be subject to search lowers the expectation of privacy for these areas.

DO weigh privacy expectations – If employees have lockers or desk drawers they routinely lock, they may have a higher expectation of privacy for these areas.

DON'T physically touch an employee – Body searches are off-limits for employers. If there is an immediate threat, call the police.

DON'T hold employees against their will – An employee who is held against their will can sue an employer for false imprisonment.

DON'T put cameras in bathrooms or changing areas.

DON'T conduct a random search – Again, you need a legitimate business reason to conduct a search.

DO consult with an attorney prior to conducting a search so you protect yourself against potential liability.

Jump start your action items in 2011. Many companies want to put in place an employee handbook but have not done so yet for monetary reasons. For companies in PA and NJ contact us by January 28 and we will put in place a handbook for your organization at half price of what it would normally cost. Don't miss this once a year offer.

About Beth Lincow Cole

Employment Law Attorney Beth Lincow Cole has skillfully helped business owners and managers head off the unwanted and unnecessary lawsuits that can arise in the workplace. Drawing on her successful legal experiences both in and outside the courtroom, Beth Lincow Cole understands how to protect employers. By developing solid pre- and post-employment procedures for her clients, she assures that they are legally protected.

Beth Lincow Cole has worked for large regional and national law firms, focusing solely on employment issues, on behalf of management within a wide range of industries. Whether you are a start up company with basic questions about personnel files or a larger company with questions about an employee's Family Medical Leave, Beth Lincow Cole can help. Drawing on her experiences, she counsel's companies in the following practice areas:

- Defense in administrative agency matters such as before the DOL, EEOC, PHRC or NJDCR
- Department of Labor Audits
- Discrimination
- Downsizing/Reduction in Force
- Drug Testing
- Employment Contracts and Severance Agreements
- Employment Law Compliance
- FMLA and other family leave laws
- Independent Contractors/Contingent Workforce

Please contact the firm to find out how the Law Office of Beth Lincow Cole can protect your company.