



EMPLOYMENT LAW | CIVIL & BUSINESS LITIGATION

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Employee Handbooks

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Goals

- Consider big picture handbook strategies
- Types of handbooks
- Policy delivery systems
- Disclaimers
- Key Policies
- Suggested policies
- Impact of NLRB actions
- Group participation encouraged!

Should You Have a Handbook?

- No law requires ERs to issue an EE handbook
- Factors to consider:
 - Company size
 - Locations
 - Different jurisdictions/regions/countries
- Bottom line – do what best fits your organization

Purpose of Handbooks

- Consistency of practices
- Legal compliance
- Informs your workforce
- Helps your managers make important decisions
- Helps EEs know what to expect, how to act, and where to go for help
- Legitimizes decisions and outcomes
- Sets the tone for your culture

Big Picture Notions

- Avoid legalese (or at least most of it)
- “Brevity is the soul of wit”
 - Consider short policies with reference to full versions elsewhere
- Speak in terms your people will relate to and appreciate
- Make sure your policies actually reflect your practices
- Make sure you understand laws that cover your company
- Commit to regular updates
- One size does not fit all
- Build in flexibility
- Consider employee task force

Segmented Handbooks

- Employee handbook
- Managerial handbook
 - Can have more detailed direction of how to handle certain issues
- Specific policy and procedure manuals

Delivery System Options

- In addition to the substance of the handbook, the delivery system is an important consideration
- Paper books are OK
- Technology/intranet can help HR be more effective
 - Easier to update
 - Easier to communicate changes
 - Obtain acknowledgement of changes / receipt
 - Can use for training as well

Must Haves ...

- At will statement
 - ER or EE can end employment at any time, for any reason or no reason (but not for unlawful reason)
 - Not a contract

Must haves ... (cont'd)

- EEO Policy
 - Identify protected categories
 - Address reasonable accommodation for disability and religion
 - Invite employees to engage in “interactive process”

Must haves ... (cont'd)

- Anti-discrimination and harassment policy
 - Address sexual harassment
 - But focus on all protected categories
- Key components
 - Define key terms
 - Provide examples
 - Set welcoming complaint mechanism
 - Describe investigation
 - Prohibit retaliation
 - State consequences

Must haves ... (cont'd)

- Wage and hour policies
 - Address work time
 - Overtime rules
 - Exempt vs. non-exempt
 - Timekeeping rules
 - Breaks and lunch time

Must haves ... (cont'd)

- Leaves of absence
 - FMLA? (only if applicable)
 - Rolling 12-month calculation period
 - Vacation / PTO
 - Sick time
 - Military
 - Jury duty
 - Bereavement
 - Voting
 - Catch-all personal
- Fringe benefits description

Must haves ... (cont'd)

- Technology use / electronic communications
 - Explains items covered
 - Describe prohibited conduct and acceptable use
 - Confidentiality / trade secret protections
 - No harassment
 - Limited personal use?
 - Warn about no privacy
 - Be specific about temp files and use of personal applications on company equipment
- Right to monitor

Optional

- Workplace conduct and discipline
 - List types of misconduct
 - State consequences
 - Build in flexibility and discretion based on needs of particular situation
 - Avoid step process unless
 - You really want it
 - You will really follow it

More Optional

- Describe benefits in detail
 - Great internal marketing!
 - Defer to plan terms
- Absences
- Holidays
- Open door policy
- Business ethics
- Introductory periods
- Performance management / reviews
- End of employment
- Dress code / piercings / tattoos

More optional

- EE recognition programs
- Recruitment
- Anti-nepotism
- Anti-fraternization
- Pay for off hour work (email; laptops; calls)
- Workers' comp
- Expense reimbursement
- Solicitation
- Inclement weather
- Remote work
- Conflict of interest
- Workplace violence

Acknowledgement

- Acknowledgement
 - Receipt of policies
 - EE obligation to review, understand (and to ask questions if they don't), and to comply
 - Reiterate at-will
 - Confirms ER right to modify

NLRA Considerations

- NLRA applies to all workplaces (not just unionized environments)
- Section 7 - the right to engage in “concerted activities for the purpose of collective bargaining or other mutual aid or protection.”
- Avoid policies that “chill” Sec 7 rights:
 - Discourage EEs from complaining about wages
 - Criticizing or disparaging the ER or managers
 - Complaining about job conditions
 - Prohibit joining outside organizations or voting on matters that involve the ER

Training

- Train managers, HR staff about effective use of handbook



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THANK YOU!