

Avoiding Problems in Writing **EMPLOYEE HANDBOOKS**

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It's Monday morning and your new employee just walked in the door. You have a stack of messages on your desk and a crisis that needs to be dealt with...*immediately*. As an employer or Human Resources Director, you want to make your new employee feels comfortable and confident as they begin the new job.

Solution? After the introductions and paperwork, sit your new employee down to review your employee handbook. It may well be the best introduction to your company its policies and practices that you can give your new employee.

Why is an employee handbook so important? In our ever increasingly litigious society, an imprecise or poorly - designed employee handbook can do more harm than good. An incomplete handbook can lead to potentially devastating lawsuits for a small business.

Here are a few hints to help ensure that your company's employee handbook is "state of the art:"

#1 – Whether you draft your own employee handbook or have someone else do it, make sure that you obtain assistance from a qualified human resource professional before giving it to your employees.

#2 – Schedule periodic reviews of your employee handbook with a HR professional to ensure compliance with current law.

#3 – Your handbook must provide for employer discretion. A common pitfall in drafting a handbook is the failure to include language that provides for employer discretion. You want to retain the right to react to changed circumstances. Many policies in employee handbooks have language that, although legally correct, could create implied contractual rights.

You need to use language that provides for "employment privileges but not contractual rights." For example, language which states, "Employees shall be entitled to..." or "The company shall..." should be replaced with language that clearly allows for employer discretion. Using the above examples, the language should instead read "If the company determines...the company will grant" or "Leave will be granted if such leave does not interfere with operations" or "...conduct that will result in discipline."

#4 – Employee handbooks should use language that avoids conveying entitlement or permanency. For example, if it contains progressive discipline language, the policy should not imply that the progressive steps would be followed in every case. You want to firmly state that the employer may vary from the policy should there be different circumstances involving conduct of behavior.



#5 – Don't give up your rights. Handbooks should contain language that declares the employer's right to modify or supplement employment privileges as circumstances



evolve. This is particularly true in the area of benefits design.

#6 – Keep it simple. In many cases employers and their legal counsel draft language in an attempt to forestall the litigious or problem employees by trying to address all conceivable situations. All handbooks need to be complete and not ambiguous or difficult for employees to understand. The policy needs to address the issue in question, but should not try to deal with all policy applications. Simplify, simplify, simplify.

#7 – Be consistent. Very often, employee handbooks are an amalgamation of policies that develop over time. It is important to ensure that the handbook reads as a cohesive whole both in style and substance, and especially tone. Make sure that the handbook is clear, consistent and reads from the employee's perspective. It should be easy to read and convey a supportive, positive tone.

#8 – Make sure your employees get it! Not only do you want your employees to have physical possession of the handbook; you also want to make sure they "get it!" Therefore, the handbook should contain a page, which is signed and dated by the employee, stating that the employee has received, read and understands it. Finally, the handbook should contain language that states that the employer retains the right to modify, alter and/or amend the handbook at any time at its sole discretion.

Remember, a simple employee handbook, which lays out the fundamental policies and procedures of your organization, doesn't need to be voluminous. It does, however, need to be current, consistent and complies with both company policy and the law. □

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