



## Resolve to Update Your Employee Policies

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The beginning of a new year is a great time to pull out all those employee policies and check to see whether they need updating and revising. It is also a perfect time to examine whether your business needs to adopt new employee policies. Whether you collect all your policies in a handbook or manual, maintain stand-alone policies, or have no policies at all, make it your new year's resolution for 2006 to evaluate the need for changes.

Although the law does not impose a requirement for every employer to have an employee handbook or comprehensive written employee policies, most employers can benefit from them. Having key information about the workplace available in written form to be distributed to all

employees ensures that all employees receive that key information—and receive a consistent message about it. Many employers find it is most convenient to gather this information in an employee handbook.

There are many commercially available do-it-yourself handbook kits. However, cautious employers approach these kits with a wary eye. Such kits do not always take into account the rules and regulations that apply in the particular geographic area in which the employer operates, and they cannot reflect the uniqueness of each employer. To be the most effective in communicating with employees and reducing exposure to legal claims, a handbook should be tailored to meet the needs of the company to which it applies.

When updating your handbook, or putting it together for the first time, topics to consider addressing include:

- **Benefits:** Listing available benefits can be a good internal public relations tool, as well as providing information about available benefits, such as leaves of absence, vacations, holidays, insurance, retirement plans, tuition reimbursement, relocation expenses, parking, and employee discounts.
- **General company procedures:** Common topics include work hours, payroll procedures, attendance requirements, breaks, personal telephone calls, outside employment, confidentiality, safety, solicitation, open door/complaint reporting procedure, grooming/appearance, employee privacy, personnel files, special scheduling on election days, computer/internet/electronic communications, and performance management process.
- **EEO:** A general statement that your company provides equal employment opportunities without regard to race, color, creed, religion, sex, national origin, age, disability or any other status protected by law with regard to all terms and conditions of employment.
- **Work rules:** Although it would be impossible to catalog every potential work rule or behavior expectation, it can be useful to advise employees of key expectations and rules and to let them know how the employer will address violations. When these rules are not followed, employers typically apply a progressive system of verbal warnings, written warnings, probation and if the previous steps are unsuccessful in eliciting the desired result, termination. Employees can be notified, through the policy, that there may be circumstances where the severity of the problem requires that the disciplinary process be

accelerated, even to immediate termination.

- **Termination procedures:** Addressing such topics as return of company property upon departure, final paycheck, benefits, exit interview, notice requirements, rehire potential, references, layoffs.
- **Special policies:** Smoking in the workplace, AIDS, records retention (including electronic records), cooperation with investigations, emergency action plans,
- **Disclaimer:** Language stating the handbook is not a contract, does not alter

the “at will” status of employees, can be modified by the company at any time, and can only be modified by a designated member of management.

- **Acknowledgement of receipt:** To avoid any confusion over what is expected of the employee, include a separate, single page statement at the end of the handbook that the employee has read and understands the contents of the handbook and will abide by its provisions throughout employment with the company. This separate sheet should be signed and dated by the employee, and placed in the employee’s permanent personnel file.

Among the federal and state laws governing the workplace are requirements for employers to adopt and communicate certain additional policies. For example, if the employee handbook includes guidance to employees concerning employee benefits or leave rights, information concerning the Family and Medical Leave Act (FMLA) entitlements and employee obligations under the FMLA must be included in the handbook. The Drug Free Workplace Act requires some Federal contractors and all Federal grantees to agree that they will provide drug-free workplaces as a condition of receiving a contract or grant from a Federal agency, and covered employers must establish a drug policy which, at a minimum, informs the employees of the dangers of drug use and advises of the availability of counseling and rehabilitation. Employers under the jurisdiction of the Department of Transportation (DOT) are required to implement policies on alcohol and drug testing of certain employees.

Further, under laws related to discrimination, harassment, and wages and hours, employers may gain defenses to claims simply by implementing certain policies in the workplace. For example, employers can demonstrate good faith and diminish surprise disability discrimination claims by including in the handbook information about the provisions of the Americans with Disabilities Act, including an invitation to request and work with the company to find a reasonable accommodation of any disabilities. Additionally, employers may provide themselves with a defense to strict liability for discriminatory harassment by a supervisor if they implement an anti-harassment policy with a complaint procedure. On the wage and hour front, employers may avoid the negative consequences of improper deductions from exempt workers’ salaries if they institute a policy prohibiting such deductions and advising employees on steps they should take if they believe their salaries have been docked inappropriately.

A few final notes: Policies in employee handbooks may be rendered useless if supervisors and managers do not enforce them. Therefore, employers who wish to reap the full benefit from the hard work spent on drafting the policies also commit resources to train supervisors and managers on how those policies work. Further, caution must be exercised in union environments, where employer obligations under applicable collective bargaining agreements and the National Labor Relations Act may limit the employer’s ability to modify and adopt policies.