

WEBINAR SERIES

Preparing and Maintaining Your Employee Handbook

March 30, 2021



Today's Agenda

- What is the Handbook's purpose?
- Are the policy statements lawful?
- Does the Handbook include all required policies?
- Does the Handbook reflect workplace realities?
- Is the Handbook understandable/readable?
- Does the Handbook reflect workplace culture?

Webinar Forum

All participants are muted.

Please type questions in the side navigation panel and we will try to address most questions during today's session.

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Today's Presenters



Linda J. Gulledge

Of Counsel – Fisher Phillips, LLP

Linda Gulledge is Of Counsel in the Irvine office and a member of the firm's PEO and Staffing Practice Group. She represents employers and staffing industry clients in all aspects of employment law, including transactional matters, compliance advice and audits, wage and hour compliance, benefits, leave management, and other employment-related legal matters.

Linda devotes a significant portion of her practice to working with staffing, employee leasing, and Professional Employer Organization (PEO) clients in compliance, employment, and transactional matters. She serves on the State Government Affairs Committee of the National Association of Professional Employer Organizations (NAPEO).

She regularly conducts seminars, webinars, and training sessions for executives, managers, and human resource professionals on employment law topics.

What's in a Handbook?

- Company history/culture
- What the employee can expect from the Company
- Timekeeping and Pay
- Benefits
- Leaves of Absence
- Work Rules



What Should Not Be Included in a Handbook?

- Detailed benefits information
- Detailed onboarding information
- Policies that apply to only a few employees
- Notices that are required to be separately distributed
- HR Procedures
- Detailed statements regarding supervisory or managerial obligations



Handbook Distribution and Updates

- Handbooks should be distributed on, or close to, the employee's first day of work.
- Employees should be asked to sign a Handbook Acknowledgement.
- Employees should be provided at least minimal training—or provided an overview—on the Handbook.
- Supervisors and managers should be provided extensive and regular training on Handbook policies.
- Handbooks should be regularly reviewed and updated.

Company History/Culture

- Brief company history
- Vision/Mission/Guiding Principles statement
- Connect these sections to the employee

“We believe that making this vision a reality takes real effort, honesty, and trust. We have a set of core values and principles that are really important as we work together towards our vision. These values and guiding principles serve as a foundation and a roadmap for the way that we treat each other. You should know them – not just so you can act on them, but also so that you can know what to expect.”

What the Employee Can Expect From The Company



- Include essential workplace tone-setting policies:
 - Problem-Solving and Communication protocols, including where to go for questions
 - Introductory Period versus “Probation Period”
 - EEO Policy
 - Reasonable Accommodations Policy
 - Policy Against Harassment, Discrimination, Retaliation

Do You See Any Issues?

- “We follow the chain-of-command. If you have a problem, speak with your supervisor.”
- “If you have a problem with a co-worker, we expect you to both be adults and work it out. Then get back to work.”
- “During the first 90 days of your employment, we can fire you for any reason. Put your best foot forward.”
- “Your job performance will be evaluated once a year.”

Timekeeping and Pay

- Include essential pay-related policies:
 - General statements regarding exempt and non-exempt classifications, full-time, part-time, temporary, and seasonal status
 - Definitions of the workweek, and pay cadence, along with pay day information
 - Timekeeping procedures for non-exempt employees
 - Meal period/rest break policies

Do You See Any Issues?

- “You will only be paid overtime if you got prior approval from your supervisor for overtime work.”
- “Wage payments are made via direct deposit or pay card.”
- “Part-time employees don’t get benefits.”

Benefits

- Include general policy statements regarding benefits:
 - General list of company-provided benefits
 - Paid holidays
 - Paid vacation or PTO
 - State-mandated insurance benefits
 - Workers' compensation benefits
 - Other optional benefits
 - Training and educational assistance
 - Wellness



Do You See Any Issues?

- “If you call off the day before or the day after a paid holiday, you will not get holiday pay.”
- “The Company provides unlimited paid time off.”
- “Employees who lie about workers’ compensation will be prosecuted for fraud.”

Leaves of Absence

- Include a general leave management policy that:
 - Explains employee obligations to provide notification of absence (including start and anticipated return date, the policy under which the absence is taken, and reason for absence);
 - Explains consequences of failure to provide notification without acceptable explanation (“absence may be deemed unexcused”);
 - For longer leaves, explains employee obligation to timely respond to request for return-to-work status update and pay employee portion of insurance premiums; and
 - Includes a statement that unless otherwise specified, leaves are unpaid.

Leaves of Absence

- Include all required leave entitlements
- Include all company leaves (vacation/PTO/other)
- For longer leaves, address prohibitions on working for another company or for oneself while on leave (if applicable), and describe return-to-work procedures
- Keep ADA interactive process obligations in mind when providing policy statements regarding return-to-work



Do You See Any Issues?

- “The Company provides unpaid leave to victims of homicide to attend judicial proceedings related to the crime.”
- “If you do not report to work after your leave, you will be terminated.”
- “Absences are disruptive, and your co-workers have to cover your work while you are gone. As such, employees are permitted to be absent only when absolutely necessary.”

Work Rules

- Make sure work rules do not on their face violate employee rights or entitlements.
- Make sure that work rules cover basic requirements for workplace conduct and interactions.
- Make sure required work rules are included.
- Avoid aspirational work rules.
- It is an HR best practice to provide a brief explanation of each work rule rather than just listing out the work rules.

Work Rules

YES

- “Employees are not required to disclose salary information.”
- “Employees are required to provide truthful and accurate information.”
- “Employees found to have stolen or misappropriated money or property will be subject to immediate termination.”

NO

- “Employees are not permitted to disclose or discuss salaries.”
- “NO LYING”
- “YOU WILL BE PUNISHED TO THE FULLEST EXTENT OF THE LAW IF YOU STEAL.”

Multi-State Considerations

- Conflicting and different state and local laws may require a state-addenda to your Handbook.
- With respect to paid time off, vacation, and sick leave:
 - Be careful with a one-size-fits-all approach
 - Be careful with “unlimited PTO” policies
 - Pay attention to state and local regulations and ordinances regarding paid sick leave and paid time off, especially regarding accrual, carry-forward, and usage requirements and limitations, and pay out requirements.

Handbook Acknowledgement

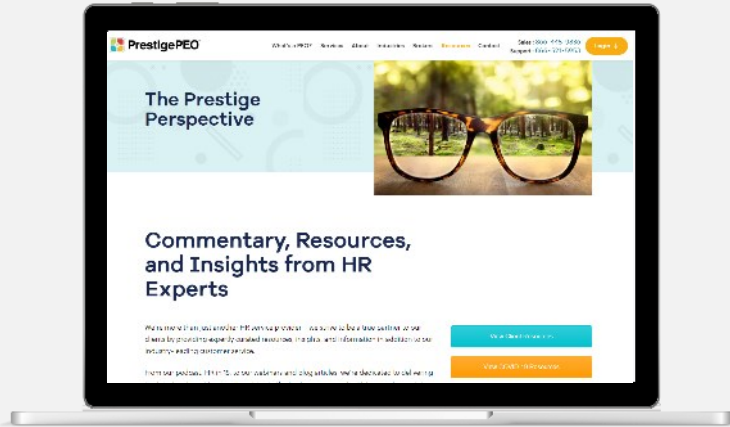
- A Handbook Acknowledgement should:
 - Acknowledge receipt of the Handbook;
 - Acknowledge that policies in Handbook (except for at-will employment policy and arbitration, if applicable) are subject to revision, or can be withdrawn; and
 - Acknowledge at-will employment status (except Montana-based employees).

Handbook Best Practices

- Keep policies updated (annual review and update), and get regular legal review of policies
- Address state-specific and local requirements
- Provide detailed training to supervisors and managers
- Pay attention to tone
- Avoid aspirational policies that do not reflect the workplace realities of your business
- Employees should acknowledge receipt of the Handbook and updates, and signed acknowledgements should be located in employee personnel files

Questions / Comments / Discussion?

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