

EMPLOYEE HANDBOOKS

**The Good, The Bad, and The Ugly
Making Every Word Count!**

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A Little About Me – Ashley Pack

- Labor and Employment Partner
- Frequent Speaker and Writer on Employment Topics
- Chair of YWCA's Human Resource Committee

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A Little About Me – Matt McMillion

- Accomplishment
- HR Director for YWCA Charleston
- Guest Speaker on various HR topics – give me a microphone
- Charleston SHRM Chapter Board Member since 2011
- Free time is more HR time (support other non-profits' HR needs)
- Align HR, Employee Handbook Specialist

Today's Objectives

- Explain the benefits of having an employee handbook and making every word count
- Describe the difference between an employee handbook and a policies and procedures manual
- Advise how handbooks can mitigate organizational risk
- Discuss the “should haves” and “don't haves” in an employee handbook

Does My Organization Need a Handbook?

- Are you required to offer FMLA? If so, how do your staff members know about this?
- Do you have memos and emails bound together because they are important but yet don't have a handbook
- Could you save yourself time and clarify any confusion by creating an employee handbook for your staff?
- Consider your company's size and history (the people)
- What if you could get everyone on the same page. . .

What is an Employee Handbook

- An important tool that communicated the policies, procedures, and practices related to employment
- Convenient reference source which can answer many questions and concerns before they become a problem
- Answers those frequently asked questions that may arise-it's starting point for staff members' questions/concerns
- Establishes the workplace culture and environment
- Will contain necessary policies and language to comply with applicable laws
- Handbooks are an excellent way to let employees know what is expected of them and what they can expect from the Company in return

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What is an Employee Handbook? Cont.

- Consistent adherence to policies prevents many problems from arising
- Improves Company productivity and morale by clearly defining expectations and standards

Policies & Procedures v. Employee Handbook

- Most common mistake in drafting an employee handbook is trying to put too much information in the manual
- Employee handbook is intended to be informational
 - Not an exhaustive list of every possible situation that might arise
 - Simply informs workforce of responsibilities, duties and rights
 - Not intended as an instructional manual for supervisors
 - AUDIENCE – consider your audience
 - Your P&P manual is a tool to assist your management on the appropriate procedures to follow

Benefits of a Properly Worded Employee Handbook

- **CERTAINTY**
- Employers effectively eliminate excuse that employees did not know a certain policy when those policies are set forth in writing
- Affords employer the luxury of knowing that its policies are contained in one document and not in the “heads” of several different managers

Benefits of an Employee Handbook

- When faced with litigation brought by an employee, an employer can use its handbook to strengthen its defense
- Handbook acknowledgments are useful for helping with unemployment claims
- Three advantages a handbook may provide:
 - Handbook policies set employees' expectations
 - Receipt and acknowledgment (implausible ignorance)
 - Preserves management's discretion

Benefits of an Employee Handbook

- CONFIRMS the employment at -will relationship
 - Effectively reduces the possibility that an employee can argue that he/she could be discharged only for just cause OR
 - That he/she had an oral or an implied contract for “X” number of years
 - Court-created exceptions to at-will employment may be dampened by properly worded handbook

Content & Policies You Need

- Communicating At-Will employment status
- Your right to modify policies, disclaimer about handbook content, (i.e. non-exhaustive lists)
- FMLA, if applicable to your organization
- Equal Employment Opportunity statement/policy
- Anti-Discrimination
- Unlawful Harassment
- Ethics Code- great place to establish your organization's values
- Workdays/hours of work
- Compensation and Benefits, including LOAs
- Important Rules or Practices Related to your Organization (will vary)

Acknowledgements

- A document that outlines that the employee's signature indicates he/she has received the employee handbook.
- Short form indicating that employee has read and understands the employee handbook and the policies contained therein; agrees to fully comply with those policies; understands and agrees that they have no employment contract or agreement of any kind; their employment is terminable at will, and may be terminated at any time without notice
- Employee understands and agrees it is their duty to keep current with all changes and updates to the handbook
- Signed and dated by the employee and retained in employee's personnel file
- When handbook is revised ensure that employees are informed of changes and provide another acknowledgement form to that effect

Training for Supervisors

- Host a training with your supervisor before you roll out a new employee handbook
- Supervisors are often the first line of defense in handling employee matters, questions, and concerns
- Get our supervisors' feedback on what areas of the handbook need extra attention for their staff/departments

Training for Employees

- Host a training with your employees to discuss changes, additions, and deletions from another handbook they may have been familiar with/acknowledged
- Advise staff that this employee handbook supersedes all other employee handbooks previously used – this new version is the governing document
- As per the supervisors, focus on the areas of the handbook that apply to that department (i.e. dress code v. attendance)

Following the Policies You Created

- Once you draft an employee handbook have it reviewed by an attorney or another trusted HR professional
- Poorly drafted employee handbooks create more harm than good – don't just check the box
 - Indicating a reporting structure such as “see the Director of XYZ” regarding this matter but “Director XYZ” doesn't exist now or never existed.
 - Organizations who create policies but don't follow them could be in worse position than not having an employee handbook at all

Words & Phrases to AVOID

- Keep the handbook to a manageable length and avoid legalese
- Use clear language that employees will be able to understand
- Several types of language can cause problems should litigation arise
- Mandatory language such as “shall” or “must”
- Can lead to finding that you have created a contract right or have obligated Company to particular course of action
- Use discretionary language such as “may”
- Leaves ultimate decision to management and will prevent misunderstandings

Words & Phrases to AVOID

- Avoid language which implies a contract
- Watch out for references which might be construed as guaranteeing employment and altering the at-will relationship
- Do not refer to employees as permanent
- Use regular or full-time
- **Probationary period terminology should be used with caution**
- Employees who successfully completes probationary period may believe employment is no longer at will
- **Avoid references to “termination for cause” or “just cause” termination**
- As an at-will employer, must make clear to employees that their employment can be terminated at any time and for any reason and not just “for cause”

You May Not Have Considered, But Should

- Have an attorney review your handbook
- Keep a marked up version at your desk to “remember” those changes during your next revision
- Test the handbook’s policies before rolling them out to all employees

Policies that are Buzz Worthy

- Internet and Email policies
- Social Media policy
- Progressive Discipline policy
- Intranet vs. Hard Copy

Rules of Thumb for Reviewing, Updating & Redistributing

- You should review your handbook annually, noting policies that may need updated
- Be mindful of policies that may need to change as a result of a change in the law, (i.e. ACA) and revise it about one every three years
- Require employees to sign new acknowledgements when handbook revisions/changes are made

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