

HR COMPLIANCE OVERVIEW

Employee Handbook Best Practices

An employee handbook functions as a vital compliance document and internal governance tool. When structured properly, it promotes consistency, supports risk management and provides employees with a clear understanding of company policies and expectations. In today's ever-shifting legal environment, maintaining a thoughtfully written and regularly updated employee handbook is essential for employers.

Essential considerations for employers when preparing or updating an employee handbook include:

- Understanding the importance of a compliant handbook;
- Considering the legal implications of a handbook;
- Including essential policies;
- Tailoring the handbook to the organization;
- Avoiding common errors and pitfalls;
- Implementing and communicating handbook policies; and
- Ongoing maintenance.

A well-drafted employee handbook ensures that all company policies and practices are communicated clearly and minimizes the risk of potential discrimination, disparate treatment and other employment-related claims or lawsuits. This Compliance Overview provides employers with best practices when drafting and maintaining an employee handbook.

Highlights

Employers can consider the following best practices when drafting or updating their employee handbook:

- Understanding the importance of a compliant handbook;
- Considering the legal implications of a handbook;
- Including essential policies;
- Tailoring the handbook to the organization;
- Avoiding common errors and pitfalls;
- Implementing and communication handbook policies; and
- Ongoing maintenance.

ACTION STEPS

Employers should carefully consider their obligations and potential legal and business risks when creating and updating employee handbooks. This Compliance Overview provides best practices for employers when drafting an employee handbook.



Best Practices for Drafting and Maintaining an Employee Handbook

The Importance of a Legally Compliant Handbook

A well-crafted employee handbook is more than a collection of workplace policies; it's a cornerstone of an organization's legal compliance, a clear line of communication between an employer and its employees, and a powerful tool for reinforcing company culture. However, employers often underestimate the legal and cultural impact of employee handbooks. When properly developed, an employee handbook minimizes legal risk, promotes consistent policy enforcement and gives employees a transparent view of the organization's expectations. A well-constructed handbook can serve as a frontline defense during disputes, audits and legal actions by helping employers establish good faith compliance with legal requirements.

Employee handbooks serve multiple functions, including:

- Communicating company values and workplace rules;
- Outlining an organization's policies and procedures;
- Fostering clear communication;
- Clarifying employment practices;
- Answering common employee questions;
- Supporting legal compliance;
- Establishing performance and behavior expectations; and
- Protecting an employer in the event of a legal dispute.

Legal Considerations

Avoiding Contractually Binding Language

Most employee handbooks are meant to educate employees on an employer's policies and expectations. They are not intended to create a contractual obligation between employees and the organization. However, employer missteps and careless language can establish unintended contractual relationships between an employer and its employees. Therefore, it's important for employers to include disclaimers and avoid promises that could be interpreted as binding commitments. Disclaimers can help clarify the purpose of the handbook and define the terms of the employment relationship to help mitigate the risk of an employer being bound to the text of the employee handbook. For example, employers can include a disclaimer stating that the organization may revise its policies at any time. To be effective, disclaimers should be prominently featured in the handbook and understandable to the average employee and specific.

Additionally, employers should avoid language that suggests guarantees or entitlements. Clearly defining the terms of the employment relationship can also help mitigate the risk of an employer being contractually bound to the text of the employee handbook.

Employers should include a signed acknowledgment form to confirm an employee's receipt and understanding of the handbook. Additionally, acknowledgment of specific policies, such as anti-discrimination, anti-harassment and confidentiality policies, can further support compliance by helping organizations demonstrate that they followed their workplace policies if personnel issues arise later.

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Maintaining Employees' At-will Employment Status

Most employment relationships are at-will, which means that an employment relationship may be terminated at any time (with or without cause) and for any reason (or no reason) as long as it is lawful. However, an at-will employment relationship may be eliminated by an employment contract or applicable laws. Unless a unique employment relationship exists, employers should clearly state that the employee handbook does not overrule existing at-will employment relationships. Employers should also ensure that other policies do not undermine the at-will employment relationship, such as probationary periods, which may make it appear that employment is guaranteed for a specific period, or progressive discipline policies, which may fail to state that an employee can be terminated at any time.

While an employee handbook is not a contractual agreement, careless language can create legal ambiguity. Employers should consider the following when preparing an employee handbook:

- Incorporating a clear at-will employment disclaimer;
- Avoiding language suggesting guarantees or entitlements; and
- Ensuring conformity with federal, state, and local employment laws.

Employers should also ask every employee to sign an acknowledgment clearly stating they recognize and agree that nothing contained in the handbook is intended to create a contractual relationship or alter the at-will relationship of their employment.

Employers can include the following language in their employee handbook to further emphasize at-will employment relationships:

- Written or oral statements made to the employee are not to be interpreted as altering the at-will relationship;
- Disciplinary procedures in the handbook may be adjusted or modified at any time and at the employer's discretion;
- The employer reserves the right to change any terms or conditions of employment, whether these are stated in the handbook or established through employment practices; and
- The terms and conditions contained in the employee handbook may only be altered in writing and signed by specified officers of the organization (e.g., owner, president or chief executive officer).

Ensuring Compliance With Legal Requirements

Lastly, employers should ensure that the policies and procedures in their employee handbook comply with federal, state and local laws to mitigate legal risk and ensure compliance with regulatory standards. An employee handbook may be presented as evidence in an employment law litigation. Therefore, employers should consider this when preparing and drafting employee handbooks and be prepared to defend the policies included therein.

A legally sound handbook reinforces consistent treatment of employees and provides clear guidance in workplace decision-making, supporting both accountability and transparency, while non-compliant policies can expose an organization to costly litigation, fines and reputational damage. Due to the rapidly evolving nature of employment laws, employers need to be vigilant about reviewing and updating their handbooks regularly. Areas of employment law that can change frequently include employee leave, wage and hour laws and anti-discrimination regulations.

Some policies may not be legally required under federal, state and local laws, but including them in an employee handbook can help establish employer expectations for its workforce and protect the organization from unlawful behavior and

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potential legal risk. Examples of these policies include performance reviews, social media guidelines, internal complaint procedures and an employee code of conduct.

Essential Components of an Employee Handbook

While employee handbooks often vary by company size, industry and geographic location of an employer's workforce, a well-constructed employee handbook includes many sections and specific policies that are clear and accessible for all employees to reference. Determining what topics should be included in an employee handbook can be a complex and challenging task. When deciding which policies to incorporate into a handbook, employers should consider the following commonly included policies:

- A welcome and purpose statement;
- A mission statement;
- An at-will employment statement;
- Employee code of ethics;
- Employment authorization and verification requirements;
- Equal employment opportunity and anti-harassment policies;
- Expectations around behavior, appearance and workplace conduct;
- Pay practices, hours of work and timekeeping practices;
- Confidential information and company property policies;
- Leave policies, including policies covering any required federal, state or local leave entitlements;
- Safety procedures, including drug and alcohol testing and violence in the workplace policies, and emergency response plans;
- Guidelines on the use of technology, the internet and social media;
- Employment benefits, such as employer-offered insurance and COBRA benefits policies; and
- Discipline, termination and grievance procedures.

These policies should reflect not only the organization's legal obligations but also its values and operational priorities.

Additionally, some laws and regulations require employers to have written policies on certain issues or topics. These requirements often vary by state or locality where employers operate. Employers should become familiar with these requirements and ensure their employee handbook contains any required policies.

Tailoring the Employee Handbook to the Organization

Organizations should align their employee handbook with their company culture, values and operational realities. A one-size-fits-all approach to an employee handbook rarely serves a business well. For example, an organization with remote or hybrid employees will likely need robust remote work and cybersecurity policies, while a manufacturer may prioritize OSHA compliance and safety training protocols in its handbook.

Since no single template applies universally to all organizations, employers must tailor their employee handbooks to reflect industry-specific obligations (e.g., HIPAA compliance for health care employers or OSHA standards for manufacturers), company structure and evolving workplace norms, such as remote and hybrid work arrangements. Additionally, employers should consider adapting the tone, format and organization of their employee handbook to the nature of the organization's business and workforce. For most employers, using a standard format may be suitable. However, for others, choosing a different format, such as frequently asked questions, may be more appropriate.

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Avoiding Common Errors and Pitfalls

Many common employee handbook issues or errors often stem from an employer's oversight, including:

- Copying policies for other organizations;
- Relying on outdated templates;
- Failing to define important terms or expectations;
- Using inconsistent or vague language that confuses employees or contradicts legal regulations and requirements;
- Neglecting to collect signed acknowledgment forms from employees; and
- Allowing the handbook to become outdated.

Regular handbook audits can help avoid many of these common pitfalls.

Handbook language should be clear and unambiguous. However, sometimes employers draft policies in a way that is difficult for employees to understand by relying on legalese and other jargon. Organizations can avoid this by defaulting to clear and accessible everyday language that all employees can understand. If a significant number of employees do not understand English or if English is not their primary language, employers should consider translating their handbook into other languages so the entire workforce can understand it.

Another common issue is drafting policies in a way that can be construed to infringe on employee rights. For example, in recent years, there has been increased scrutiny of unlawful restrictions found in employment policies on employee rights under the National Labor Relations Act to engage in protected concerted activity or collective action to improve wages, hours and working conditions. Overlooking key differences between federal, state and local laws can frequently result in violations of employee rights. Therefore, employers should review their employee handbooks to ensure that policies do not infringe on employee rights or fail to distinguish between applicable laws.

Employees should be able to use and reference an employee handbook with ease. Employers can do this by using a user-friendly format when designing handbooks. This often includes grouping similar policies and making them easy to find, allowing employees to locate specific policies quickly. Including a table of contents or index can also make it easier for employees to navigate and locate workplace policies.

Retaining qualified legal counsel to review an employee handbook is often one of the most effective ways to identify errors and address potential risks. Legal professionals can catch subtle compliance issues and ensure an organization's policies align with current laws and regulations.

Implementing and Communicating Workplace Policies

Once the handbook is finalized, employers should focus on training and communicating workplace policies and any updates to employees. Organizations should train managers and employees on the policies included in their employee handbook and how the employer will use the handbook. This can help employees become familiar with the employee handbook and understand the employer's workplace policies.

To ensure that workplace policies are communicated effectively to employees, organizations can determine the best way to distribute their employee handbook. For some workplaces, distributing an electronic version of the handbook may work best. This has the added benefit of saving time and expense in printing and distributing the handbook. Additionally, many organizations distribute the employee handbook during onboarding or new hire orientation. This allows employees to

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become familiar with workplace policies and expectations at the start of their employment, which can improve employee engagement and retention. When distributing handbooks, employers should also have employees acknowledge that they have received, reviewed and consented to the employee handbook by signing and dating an acknowledgment form. Importantly, organizations should consider having an employment attorney review their handbook or any updates before making it available to employees.

It's vital that employers ensure that employment policies are readily accessible to all employees—whether in print, digital format or integrated into the organization's onboarding platform—and document who has received them and when for recordkeeping and compliance purposes. Employees should know where to find and how to access their organization's employee handbook.

Ongoing Maintenance

An employee handbook is a living document that evolves with an organization as the law or business changes. Therefore, it's essential for employers to review their employee handbook regularly to ensure that organizational standards comply with legal requirements. Regular review can also help employers eliminate any inaccuracies or inconsistencies in their policies. Employers should review and update their employee handbook annually, at a minimum. However, employers should monitor federal, state and local legal developments and update their handbooks accordingly. If major legal changes occur, employers should consider updating their handbooks more frequently. When making changes or updates, it can be wise to seek feedback from leadership and employees to fine-tune policies and respond to evolving workplace dynamics.

When an employer revises their employee handbook, employers should communicate any changes to all employees to avoid confusion and provide employees with the updates. For significant changes, employers can have all employees sign another acknowledgment form that verifies that each employee understands and accepts all changes to the handbook. A revised employee handbook should clearly indicate that it supersedes any prior versions. Employers should retain copies of old handbooks for the longest statute of limitations period under applicable federal, state and local laws.

Employer Takeaways

An up-to-date and clearly written employee handbook is an indispensable risk management and workforce communication tool for employers. However, if poorly drafted or left outdated, a handbook may expose an organization to liability. Therefore, organizations should invest the necessary time and legal expertise to ensure their employee handbook complies with all applicable legal requirements and serves its intended purpose.

Whether an employer is drafting an employee handbook from scratch or revamping an existing one, by following the best practices outlined in this article, employers can better ensure that their employee handbook promotes consistency throughout the employment relationships, protects the organization and stands up to the demands of today's workplace. A comprehensive handbook, developed with proper legal oversight, can help mitigate risks and support an employer's overall compliance efforts.