

CAN YOUR COMPANY BENEFIT FROM AN EMPLOYEE HANDBOOK?

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An employee handbook is a document, distributed to employees, describing the benefits and policies of employment in a nonlegal, nontechnical manner. A handbook can address topics such as the hiring process, compensation and benefits, pay periods and overtime policies, holidays, leaves of absence, and sexual harassment.

Creating an employee handbook can have many advantages for an employer. Establishing policies for the uniform treatment of all employees will help to maintain high morale and decrease the risk of employment discrimination complaints. A handbook can also protect an employer's interests by defining and prohibiting conflicts of interest, competition while employed, and disclosure of confidential information. The following are some additional benefits of a handbook:

- satisfy certain state and federal laws requiring that specific policies be in writing;
- inform employees of the standards that they are expected to meet and the procedures to be followed;
- provide answers to common employee questions and thus avoid the need to answer repeated inquiries;
- inform new employees of policies and benefits in a timely, efficient manner; and
- alert employees to an employer's right to conduct workplace investigation and the employee's obligation to cooperate.

Although there are many advantages to a handbook, employers should be aware of some practical disadvantages. An employer must keep the handbook current because laws change rapidly in the employment area. In addition, if an employer uses an informal management style, creating a handbook that establishes detailed policies and procedures creates a burden and potential liability for failing to follow these policies and procedures. An employer should also be aware that if benefits differ between classes of employees, a handbook highlighting these differences may create ill will.

Perhaps the most important potential concern is the risk of creating unintended employment contracts with employees based on the terms in the handbook. Employers generally favor "at-will" employment, hiring employees without an employment contract, because "at-will" employees may be discharged at any time, for almost any reason. A poorly drafted handbook, however, may undermine the intended "at-will" status of employment by inadvertently creating an implied contract that gives the employee the right to employment for a certain time period or continued employment absent "cause" for termination. A poorly drafted handbook may also create other contractual rights such as the right to compensation or benefits.

An employer, however, can minimize the risk that a court will find that a handbook creates contractual rights by including disclaimers and qualifying language throughout the handbook.

The disclaimer should be prominently displayed and should make clear that the handbook is not a contract, that it does not confer contractual rights, and that the employment relationship is at-will. The exact wording of the disclaimer and the qualifying language needed throughout the handbook is important.

An employer should have legal counsel review the disclaimer and the handbook generally before the handbook is distributed to employees to insure that policies are consistent with current law and no unintended contractual rights are created.