Employee Handbooks: Friendly Hello or Wordy Legalese?

Attending an EDSymposium is always an information packed two days of learning in a wide variety of topics. While some of the sessions are focused on topics specific to one specialty, such as finance or marketing, I was drawn to a session that truly touches each and every employee in a company: “Top Mistakes To Avoid in An Employee Handbook,” led by Mr. Bradley Adler, from Freeman Mathis & Gary LLP.

We have all started at some point as a new hire, and most of us remember on our first day at the company being handed an official employee handbook (hopefully every company has one!). Some of us may have read it from cover to cover, while some of us filed it away and have never pulled it back out. But in either case, Mr. Adler pointed out that this handbook is a very important and crucial document that employers should take seriously when putting their handbook together. Mr. Adler explained to us how handbooks are viewed from a legal point of view and brought up ten key points in an employee handbook that should be addressed by every company. These are explained below:

1. **Introduction Section** – While most firms use this section to tell the entire history of their company, Mr. Adler advises to keep the flowery descriptions to a minimum and to instead use this section to simply identify the purpose of the Handbook and to emphasize the at-will disclaimer. He also suggests being careful of stating unrealistic objectives and mission statements related to employees in this section.

2. **EEO Policy** – The Equal Employment Opportunity section needs to identify some of the major federal protected categories that are covered. Subsections should address religious accommodations and the American Disabilities Act (ADA), as well as various types of harassment and discrimination topics (religion, racial, age, etc.). There should be an emphasis on following the Employee Complaint Procedure to report issues, which leads to the next key point.

3. **Employee Complaint Procedure** – This description should clearly identify the types of issues for which the procedure is being used, as well as identifying a specific job position (HR Manager? Office Manager?) that the employee must file the reports with. The employer should ensure that the person with this specific job position gets proper training in how to handle these complaints.

4. **Family and Medical Leave Act** – For those firms that qualify for FMLA (employers with at least fifty employees), the handbook should provide details about what is eligible for leave, the amount and type of leave provided, procedures for requesting and certifying the leave request, and the responsibilities of the employee while on leave and when they return from their leave. The key question to answer: Is there a medical issue that involves the employee or the employee’s family member? And if so, will the medical issue potentially impact the employee’s...
job? If this is the case, it is advisable to contact your HR department about the issue.

5. **Standards of Conduct Policy** – For this policy, it is important to have language emphasizing the discipline options, avoiding the use of verbal warnings, and to have a documentation process acknowledged and signed by the employee. Perspective and perception that is supported by written documentation has a strong impact in juries believing disciplinary actions.

6. **Timekeeping Policy** – Handbooks should cover the must-haves and things-to-avoid for keeping time. This should include having employees record all time worked and not working off-the-clock. Things to avoid include language about clocking in early or late, language about automatic lunch deductions, and language about not paying overtime unless authorized in advance.

7. **Vacation and Sick Leave Policy** – A main point to decide is if you want to have separate or combined banks for vacation and sick leave. It’s important to identify specifically who is eligible, when they are eligible, and the procedure for requesting the use of leave. Other decisions to determine include allowing rollover or payouts and deciding whether the leave is based on a calendar year or anniversary year basis.

8. **Protecting Confidential Information** – The policy listed in the handbook should cover expectations of the company on the use of confidential information, as well as any contractual restraints, such as post-employment restrictive covenants and any state laws that may govern.

9. **Technology Resources Policy** – This policy should cover the business use of the company’s resources but should also address the personal use of technology resources by the employee. Ownership and access to these resources should be addressed in the policy.

10. **Acknowledgement and Arbitration Agreement** – Be sure to include a signed form by the employee (written or electronic), which acknowledges receipt of the handbook and the at-will status of the position. The handbook should have details of the arbitration agreement as a stand-alone section that explains how all disputes are to be covered, who is financially responsible, and what types of forums will be used.

While keeping all these points in mind, a good handbook should be implemented from the start with new hires at orientation. Current employees should also receive updated handbooks as needed, with an acknowledgement form from all employees being received and filed.

In conclusion, Mr. Adler had an overarching principle to keep in mind: “Say what you do and do what you say.” In doing so, the company will create a sense of loyalty, trust, and credibility amongst its employees. The employee handbook should be a key point in the company’s leadership, in affirming this commitment in writing, which will lead to greater employee satisfaction.
Kurt Wong, CDFA
Project Controls
Studio Meng Strazzara
Seattle, WA

---

The content of SDA’s *In the Know* articles are considered the opinion of the author. SDA does not endorse any products or services mentioned, and SDA does not assume responsibility for any circumstance arising out of the interpretation, application, use or misuse of any information presented. SDA recommends the reader consult the appropriate legal, financial, or human resource counsel before implementing information contained herein.