

Personnel Notebook

For Your Most Important Resource -- The Human Resource

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COMPANY BIBLES

Should You Have An Employee Handbook?

Several years ago, while preparing an employee handbook for a large personal computer firm, we interviewed a department head about his "pregnancy leave" policy. He described a stringent policy that allowed two weeks leave with no pay, for employees with at least two years of employment. Failure to return within two weeks was cause for termination.

We were surprised, therefore, when that same day we interviewed another department head one floor down who described her "pregnancy leave" policy as 3-6 months leave with pay while all company benefits continued and even vacations and sick leave continued to accumulate. We were even more surprised when she said that the employee is not required to use her sick leave or vacation time for any of this pregnancy leave. These two policies existed in the same company in departments within 50 feet of each other. Doesn't sound very fair does it?

When you add to this the coincidence that the department with the two weeks policy is the department with most of the company's minorities, then it doesn't sound very legal either. Needless to say, when the employee handbook was created, one pregnancy policy was designed to cover all employees equitably.

Earlier that year the same company had experienced another unusual incident. An employee, Mr. X, was arrested for breaking into the company after hours and stealing computers. The company identified the stolen items and pressed

criminal charges. Many months later Mr. X was hospitalized with AIDS. Unemployed with no benefits, he claimed that:

1. He had never been terminated by the company.
2. He had never been notified of his rights to continue and to self-pay his benefits (as required by the Federal COBRA Act).

As a result, the company assumed the financial obligation of his illness, which eventually exceeded \$100,000.

A policy that calls for immediate termination after 3 days of unexcused absence or theft within the company could have prevented this loss. A notification in an employee handbook of the COBRA allowance could have assisted the company on the insurance liability issue.

These two actual cases are examples of how employee handbooks can be of value.

Back in the early 1980s, many companies were actually burning their employee handbooks. The reasons were that the number of Federal and State employment laws had grown and the interpretation of those laws was often so confusing that companies were no longer sure what the laws were. In addition, many companies were being sued for language in their handbooks that they couldn't support, such as references to "permanent employees" whose jobs were later abolished.

Let's explore the whole subject of employee handbooks and use this outline as a guide:

- I. What is an employee handbook and why do I want one?
- II. What should and should not be included?
- III. How to prepare an employee handbook.

I. WHAT IS AN EMPLOYEE HANDBOOK AND WHY DO I WANT ONE?

An employee handbook is a statement of the privileges and obligations of employment in your company. It is the result of the orderly thinking through of your company's philosophies, benefits, expectations, methods and procedures.

It is also a major communication tool that allows employees to see the company the same way you do. It also provides a way to communicate some of those items you are legally required to communicate, such as, EEO, Affirmative Action, COBRA, etc.

It is not a contract of employment. It is not another version of the 10 Commandments. It is not a promise of things you intend to offer to employees some day in the future.

It is a picture, captured in time, of things the way they exist right now in a company that will always be changing.

There are many reasons to have an employee handbook. Three reasons stand out as most important. The first is to inform all employees of the privileges and responsibilities of employment. The second is to assure consistency and equality in policy decisions. This reduces favoritism and discrimination in company actions. The third is to eliminate the need to keep making the same decisions over and over again. A policy decision is carefully thought out and then documented for use. If conditions later give cause for reconsideration, the policy is rewritten.

Policy handbooks reduce the learning curve of new employees in the company. Understanding the company philosophy and learning the rules is a matter of orientation time vs. disorientation time. They reduce gossip, rumors and confusion by answering employees' questions, with the same

answers to all.

Your supervisors and managers represent your company and can commit you to obligations by their comments and actions. They should know the rules.

Employee motivation comes greatly from knowing the company's culture and goals, with everyone working in the same direction understanding the same policies and procedures.

A handbook can play a vital role in defending a claim of wrongful or abusive discharge. It may be difficult to prove that an employee violated company rules if he/she claims that they did not know the rules.

All companies have policies. They include work hours, vacation time and overtime to name a few. These policies may be announced in memos, bulletin boards or even verbally. These policies all exist even if they are not organized in one volume. If you have no written policies, then your practice becomes your policy whether written down or not. All of these policies are being interpreted and misinterpreted every day. You can control them best if they are organized and documented.

II. WHAT SHOULD AND SHOULD NOT BE INCLUDED?

Let's start with some should nots.

A. Do not use terms such as:

- "Permanent employee." This is often considered by the courts to imply an offer of permanent employment. Instead, use terms such as "regular employee."
- "Employees will only be terminated for cause." You may be strictly held to proving cause for every layoff or termination.
- "Lifelong employment for good employees." Same as above.
- "We provide all employees with training, advancement and recognition." This

obligates you to assure that every employee will do well and succeed. It is best not to use wording that includes all employees. It is also better to state that opportunities exist for training, etc.

- Sexist language. Don't refer to all secretaries as her and all operatives and executives as him. It's not a legality, of course, but your employees will notice. It also sends a message that is no longer acceptable to the outside world.

Do not mislead employees. Do not list benefits you intend to provide later. Do not say that employees will be given a week's notice when in practice you terminate on the spot. Do not cause employees to believe that they have insurance benefits, which in fact, they do not. Generally speaking, if you lead employees to believe that they have insurance coverage, you may be required to provide that coverage even if the insurance company refuses.

Do not appear to be more benevolent than you intend to be.

B. You should include:

- EEO statement. You are required by law to announce to your employees and the public that you do not discriminate in hiring, promotion, etc. Put it in your handbook as well.
- Workweek. The Fair Labor Standards Act (FLSA) requires you to identify your established work week. When does it start and end (i.e., Monday morning at 12:00 a.m. to the following Sunday night at midnight)?
- COBRA. Write a simple statement that says employees may have rights to continue certain benefits upon leaving employment with the company and tell them whom to contact.
- Sexual harassment. The courts have established that a major defense for the employer in a sexual harassment case is to prove that they have taken firm steps to

inform and train supervisors in the identification and swift resolution of sexual harassment complaints.

- Immediate termination for cause. Although employees who do not perform well are usually given warnings, probation or other opportunities to improve over time, some actions give cause for immediate termination. These may include drinking on the job, stealing, 3 days of unexcused absence, insubordination, etc. List those (usually 6 to 10) reasons for which you intend to terminate immediately.
- Emergencies. List the procedures for evacuation in the event of a fire; the phone numbers for fire, police and ambulance. The location of fire extinguishers, first aid kits, etc. You may want to include procedures for bomb threats.
- Pregnancy leave. The Family and Medical Leave Act (FMLA), requires that you must allow at least 12 weeks of unpaid leave while benefits continue and the employee's job is protected. There are many serious issues to examine in FMLA that will affect how you administer all maternity, adoption and medical leaves in your company. Instead of combining them all in one policy, it is recommended that you state your FMLA policy (you may decide to allow more than is legally required), and then to examine and appropriately re-word the other policies that relate to it. These other policies may include maternity, sick leave, leave of absence, leave without pay, vacation and insurance benefits.
- Military leave. Be careful what you determine to be policy for military leave. In our experience so far, few companies have understood the far reaching demands required by law for veterans' leave. If you don't know the law, find out what it says and state that you will comply. You will have to anyway.
- Disclaimer. A statement should be included that says that this is not a contract of employment. That these are highlights of the company's more significant policies and

benefits and that the insurance benefits are governed by the insurance documents, not the handbook. Also add that policies and benefits may be altered at any time by the company.

- Signature sheets. Include a tear sheet that states that the employee has received the handbook and will read it. Further, that if he/she does not understand any part of it they will request help from their supervisor. This sheet should be signed, dated, torn out and filed in the employee's personnel file.
- History of the company. Tell employees your history. Let them know about the company for which they are working.
- Letter from the president. A positive, welcoming statement, a message from the leader to the individual reading it. Remember that you are addressing both new and existing employees.

You will find a list of policy items to consider on page 6. In selecting policies to include, consider the following points:

Is this a policy that needs to be included? How serious is this issue? What effect does it have on other employees, the company? Is it worth the creation of a new policy?

Can this policy be efficiently administered? Having a rule that cannot work and is not accepted, is worse than not having the rule at all. What are the profit and loss effects of this policy? What will this cost in time and money? Am I prepared to absorb the cost of this policy?

Some handbooks are designed specifically to protect the employer, others to convince employees that this is a great place to work. Choose what you want yours to be. If you truly analyze where your company stands, you will probably find a balance somewhere between the two.

Overall, your handbook should be a positive product. On balance there should be fewer negatives while accenting the positives. Try to emphasize employee benefits and company goals over work rules and disciplinary problems.

III. HOW TO PREPARE AN EMPLOYEE HANDBOOK.

Whether you assign a team or one individual to the project, the personnel department or person should be in charge or at least on the team.

A. Identify all existing policies by:

1. Collecting existing policy handbooks or rule books from all departments.
2. Collecting existing memos, letters, newsletters and bulletin board postings that describe rules and policies.
3. Meet with department heads and supervisors to document any unwritten verbal policies and existing practices that should be written policies.
4. Discuss any past law suits, employee grievances, terminations, EEO cases, vacation disagreements, benefit misunderstandings, probations and other employee problems. Would a new policy help if such cases occur again?

You should also review your union contract if you have one. You do not want to write a policy that is in conflict with your union agreement. In most cases it is best to avoid union contract work rules in your handbook unless you quote them verbatim and review them with the union.

It is seldom advisable to copy another company's handbook. If you decide to take this route, use it only as a list of recommended policies for you to consider. You should still review each policy to determine if it's right for your company and your employees. Does it fit your company culture? Can and will you and your employees live with it? When completed, prepare a final list of all policy titles you intend to include. Review them to see if you want to address them all. Are there any missing?

B. Writing the policies.

Writing the actual policy is first a matter of understanding what you are doing now to address this issue. Do you agree with the current practice? Is it fair, legal and workable? If this issue has ever occurred before, what did you do about it? How did you resolve it before? Who objects to this policy? Why?

How should your insurance benefits be listed? There are 3 different considerations here.

1. Translate your insurance benefits to everyday English. Pass them through your insurance company for approval and signature.

2. Describe them only by title as in:
Life insurance: \$10,000 life insurance policy.
Hospitalization: Major medical and dental.

3. Copy them verbatim from the policy. All 3 methods are used extensively but item No. 2 is the most practical. The wording in the manual should be readable by all employees. Avoid bureaucratic, formal terms. Be brief without sacrificing clarity. The best manuals talk directly to the individual (you, we, us).

Categorize the policies into such sections as:

- I. Introduction
- II. Administrative Policies
- III. Benefits.

A miscellaneous category is okay, but if too many items show up there, it is a sign of poor categorization. You will find a sample contents page on page 7.

Submit each policy to your attorney. Be fair to your attorney; if he/she is not a labor attorney, you may be putting them on the spot. These are mostly labor law and practical, day-to-day employment issues. Avoid "legalese" in phrasing and wording. Try to use a more conversational style for easy understanding.

C. Final steps.

You can type, photocopy, staple it together and pass it out, but keep in mind this piece of work represents your company. It is a major communication tool that many companies refer to as their "company bible." You may want a first class appearance for your first class product.

Use a system that accommodates updating and changes. Consider a 3-ring binder. Numbering each section with Roman numerals and then

regular numbers on the pages within each section with one policy per page, will make updates much easier.

Should you have it typeset or desktopped on your office computer? Should you use graphics, cartoons, photographs or color? Should it be a full 3-ring binder or a 1/2 size? Spiral bound? Stitched?

Keep in mind that within one or two months you will find mistakes and will wish to correct them. And finally, all employees should have their own copy. You can require that they be returned if leaving the company. You can require a \$10 charge (but not a deposit) if they are not returned, however, this is rarely done. When completed, you should conduct supervisors' meetings to explain and interpret the handbook. Your supervisors are, in fact, the administrators of your handbook.

Your handbook can be your constitution and your bill of rights. It can also be your best advertisement to your own employees. It's a lot of work, but if done properly, it can be an effective, efficient tool and a source of pride.

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- A List Of Policy Items To Consider:

Absences
 Accidental Death Insurance
 Accidents
 Advances In Pay
 Affirmative Action
 AIDS
 Alcoholic Beverages
 Attendance At Meetings
 Benefits
 Bereavement Leave
 Bonding
 Bonus Plan
 Bulletin Board
 Cafeteria
 Cashing Paychecks
 Classification Of Employees
 COBRA
 Collections And Solicitations
 Community Relations
 Compensatory Time
 Confidential Information
 Conflict Of Interest
 Counseling
 Credit Union
 Customer Relations
 Deductions From Pay
 Definitions
 Dental Insurance
 Discharge
 Disclaimer (no contract)
 Dress Code
 Drugs
 Educational Reimbursement
 EEO
 Emergencies
 Employee Assistance Program (EAP)
 Employee Expenses
 Employee Privacy
 Employee Purchase Plan
 Exit Interviews
 Eyeglasses
 Family and Medical Leave
 Fire Protection
 First Aid
 Flextime
 Garnishment Of Wages
 General Information
 Grievances
 History Of The Company
 Holidays
 Hospitalization Insurance
 Hours of Work

Housekeeping
 Identification
 Immediate Termination
 Inclement Weather
 Injuries
 Job Postings
 Jury Duty
 Lateness/Tardiness
 Layoffs
 Leave Of Absence
 Leave Without Pay
 Life Insurance
 Meal Period
 Military Leave
 Open Door Policy
 Organization Chart
 Overtime
 Parking
 Pay Periods
 Performance Appraisals
 Personal Leave
 Physical Examinations
 Pregnancy Leave
 Premium Pay
 President's Statement
 Probation
 Progressive Discipline
 Promotions
 Referral Bonus
 Relocation
 Retirement
 Security System
 Sexual Harassment
 Shift Premium
 Sick Leave
 Signature Sheet
 Smoking
 Suggestions
 Telephone Policy
 Temporary Assignments
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 Travel
 Unemployment Compensation
 U.S. Savings Bonds
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