

Tips for Updating Employee Handbooks in 2021

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June 30, 2021

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There are numerous reasons why employers should take the time to update their handbooks on an annual basis, at a minimum. However, many employers, including those in the construction industry, undervalue the benefits a current, legally compliant handbook can have, and unfortunately, having an out-of-date handbook can be just as risky as having no handbook at all.

1. Regularly Review Your Handbook

Handbooks should be reviewed no less frequently than annually. Employment laws, particularly those on the state and local level, are in constant flux, requiring consistent review of policies to ensure notice requirements are being met and laws accurately reflected. For example, Virginia has statutory requirements that disability and pregnancy accommodation information be contained in an employer's handbook. In addition, if you are a federal contractor, you may have additional requirements imposed by Executive Orders (for example, Pay Transparency notice requirements). State and local sick leave laws, harassment policy requirements, marijuana legalization laws, policies that have been permanently impacted due to COVID-19 (e.g., remote or telework policies), are just a few recent reasons to take a look at your handbook this year to see if it needs to be updated. In addition, if you have employees performing work in more than one state (including those working remotely), you will want to ensure that your handbook complies with each state's requirements.

2. Make Sure Policies Accurately Reflect Real Life and Are Easy to Understand

In addition to notifying employees of what their rights are, handbooks can be useful tools for employers to demonstrate why certain actions were taken regarding employee conduct and performance, but this is true only if the policies are accurate. If there are differences in policies from job site to job site for example, the policies in the handbook may need to be tailored similarly. Likewise, if handbook policies are going to be used to demonstrate employee knowledge of expectations and rules, the policies need to be written in a way that is easy for employees to understand. You do not want there to be any doubt of what was expected. This information can be useful in unemployment and workers' compensation claims and litigation, as well as working through the accommodation process. However, if policies are inaccurate and do not reflect current practices and expectations or are incomprehensible, then they may actually be harmful to the employer.

3. Be Able to Demonstrate the Employee Received the Handbook

You can have the best handbook, but it means nothing if the employer cannot demonstrate it was provided to or accessible to the employee. It is important to keep a signed and dated written record of the employee's receipt of the handbook and expectation that they familiarize themselves with it. Moreover, some state and local laws require an acknowledgment of certain policies. Onboarding should address the handbook as well with a record of this being done. With many employees in the construction industry being in the field only, it is even more important to make sure

employees acknowledge physical receipt as they do not report to a brick-and-mortar corporate facility every day, where copies may be housed, nor do they always have electronic access to digital handbooks on company intranets.

4. Train Management on Handbook Policies

Ensure your management team is familiar with and has been trained on handbook policies to provide consistent application and interpretation. A court may look to see if a supervisor can articulate the company's expectations and requirements, and, if not, then it may find the employee should likewise not be held accountable to those standards.

5. Legal Review is Key

Lastly, make sure you have your handbook reviewed by legal counsel before it is finalized. Handbooks are not a one-size-fits-all and it is important to ensure that they each meets legal requirements before you roll it out to your employees.

Ultimately, failure to properly update your handbook can leave an employer exposed to liability. Updating a handbook may not be your favorite "to do" item, but employers really can benefit from making this an annual exercise.

Jackson Lewis attorneys are available to assist employers with this and other workplace issues.

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