

Employee Handbooks 101: Dos and Don'ts For Every Employer

This guide explores dos and don'ts for every employer when it comes to drafting and implementing employee handbooks in the workplace. It explores the following topics:

- Considering Whether to Have an Employee Handbook
- Assembling an Employee Handbook
- Determining What Topics to Include in an Employee Handbook
- Drafting the Provisions of an Employee Handbook
- Finalizing and Distributing an Employee Handbook
- Creating an Employee Handbook as a Multistate Employer
- Updating an Employee Handbook

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One of the most common workplace documents is an employee handbook. Sometimes referred to as an employee manual, staff handbook, or personnel manual, an employee handbook is a common mechanism for promoting your workplace policies, procedures and rules and an effective way to convey to employees what is expected of them as employees of your company in terms of their rights and obligations.

In fact, according to a survey by Laurdan Associates, Inc. and Ceridian Employment Law Compliance Leader conducted in 2010, 91% of participants indicate that their organization developed and promulgated HR policies and procedures and 89% specifically used an employee handbook to communicate such policies.

Despite the fact that employee handbooks are so widespread, there is some measure of risk in releasing an employee handbook and having you commit yourself to workplace policies in writing. If you choose to have an employee handbook, it is critical to follow through in implementing and enforcing it. You should also realize that what is not included in a handbook is almost as important as what is included. Additionally, in recent years, the government has been scrutinizing employee handbooks to see if they unlawfully restrict an employee's right under the National Labor Relations Act (NLRA) to engage in protected concerted activity or collective action to improve their wages, hours and working conditions. This also may make you think twice about developing and implementing an employee handbook. Despite this, it is still of utmost importance to have an employee handbook because when executed properly, the benefits far outweigh the risks.

Considering Whether to Have an Employee Handbook

There are many good reasons why you may want to develop and implement an employee handbook. Aside from the fact that a handbook allows you to document, compile and retain all employment-related policies in a single document, it can also create uniformity and consistency and minimize the risk of a misunderstanding between supervisors and employees by providing clear guidance on company policies. You should keep the following in mind when determining whether or not to have an employee handbook:

DO	DON'T
<ul style="list-style-type: none"> • Consider having a handbook to provide employees with notice of their job duties and responsibilities as well as their rights and benefits. • Ensure expectations of employees with respect to employee conduct, behavior, performance requirements, attendance and discipline are communicated clearly and consistently. • Have a handbook to convey your mission, history, purpose and goals. • Consider the language needs of employees when deciding whether or not to have a handbook. • Use the handbook as a way to include policies that minimize the potential for liability by showing that you comply with the law. 	<ul style="list-style-type: none"> • Have the same employee handbook for all employees if they are subject to different rules and workplace policies. • Release a handbook unless it is legally compliant and includes all of the policies an employee handbook is obligated to provide. • Try to have a handbook to cover all employment-related situations. Leave some room for flexibility when managing employees.

Assembling an Employee Handbook

Developing an employee handbook can be a challenging process as there are many issues that should be taken into account. Be sure to review all prior contractual commitments as well as prior employment policies that were instituted. Further, you should consult with key players in your company as well as legal counsel. The following are some helpful tips:

DO	DON'T
<ul style="list-style-type: none"> • Review and incorporate all prior writings, practices, commitments and obligations on employment-related topics such as those found in preexisting policies and company memoranda. • Incorporate summary plan descriptions or promotional materials for benefit plans. • Consider how collective bargaining agreements and individual employment contracts will impact the handbook policies. • Consult with key members of your company such as HR, benefits, payroll and supervisors who may have input on employment policies. • Research legal requirements and trends, particularly on new and emerging areas. Consult with experts where needed. 	<ul style="list-style-type: none"> • Use another company's handbook without tailoring it to your specific needs. No two employers are exactly alike. • Have a one size fits all handbook if different groups of employees or departments require different work rules. • Forget to consult with IT and technology experts with regard to social media and Bring Your Own Device (BYOD) policies.

Determining What Topics to Include in an Employee Handbook

Determining what topics you should cover in an employee handbook is a complex task. The topics you choose to remain silent about are almost as important as the topics you choose to address and incorporate into workplace policies. In determining which policies to include, you should take the following into account:

DO	DON'T
<ul style="list-style-type: none"> • Include a disclaimer that is clear and conspicuous and states that the handbook is not a contract, does not alter employment at-will status and is subject to change. • Retain the right to change employee wages, hours and working conditions without consultation and agreement. • Begin with a brief overview of your business or organization and the main products or services it offers as well as your goals and values. • Make sure the discrimination and harassment sections of the employee handbook cover all categories protected by federal, state and local law depending on the jurisdiction you operate in. It may be best practice to be over-inclusive as this will demonstrate that you foster a tolerant and diverse workforce, but be sure to implement the policy consistently. • Include a multi-channel complaint procedure that will enable employees to bring complaints to HR and other accountable employees. • Let employees know how they will be paid, what schedules they will be expected to work and whether or not they will be entitled to time off and leaves of absence as well as meal and rest breaks. Employees should also know how overtime is handled and how they will be reimbursed for any business expenses. • Include information on employee conduct and work rules. • Notify employees how their work performance will be evaluated and reviewed. • Aim to protect your company and the workplace by including policies on workplace safety and security as well as workplace violence. • Include information about the benefits generally available to employees. 	<ul style="list-style-type: none"> • Be too specific when discussing employee benefits as these may change from year to year. • Forget to include any policies you are legally obligated to provide, such as FMLA. • Overlook differences in federal, state and local law. • Neglect to include information on leaving the company and how resignations, terminations and retirements will be handled. • Forget to be specific when describing the confidential information and trade secrets you seek to protect. Consider using additional confidentiality agreements and non-compete agreements to further memorialize employee obligations. • Be too detailed when discussing what conduct may be grounds for discipline. Make the list of unlawful conduct non-exhaustive and leave room for your discretion. • Commit to a rigid disciplinary policy. Be sure to retain the ability to discipline employees when warranted.

Drafting the Provisions of an Employee Handbook

When it comes time to draft and prepare the policies to be incorporated into an employee handbook, there are many issues you should take into account such as the format, organization and tone it will be written in. The style of the handbook should be tailored to the nature of your business and your employees. For some employers, an employee handbook in a standard format may be most suitable. For others, a handbook written as frequently asked questions may be more appropriate. Here are some issues you should consider:

DO	DON'T
<ul style="list-style-type: none"> • Make the handbook user-friendly and write it in a casual readable tone that is easy to understand. • Consider involving supervisors and possibly employees in the process of drafting the employee handbook. • Place the policies in the handbook in an orderly manner, grouping similar policies together and making them easy to find. A table of contents and index may make it easier to navigate. • Write the policies in clear and unambiguous language, remembering that employees are the intended audience. • Proofread the handbook policies and review multiple drafts before it is finalized. Get multiple parties involved in the process of review. • Avoid using language that may lead employees to believe their employment is not at-will and they may only be disciplined or terminated for cause. • Realize that the handbook may serve as evidence in either supporting or defending against an employment law claim. Be prepared to stand behind the policies in the employee handbook. • Review all policies to see if the policy could be construed as infringing upon the employee right to engage in protected concerted activity. 	<ul style="list-style-type: none"> • Go into a great deal of detail on policies and be too specific which will create the need for the handbook to be constantly updated or thoroughly overhauled on a frequent basis. Aim to keep policies general. • Get caught up in legal and HR jargon. Use everyday language. • Assume all employees will be able to understand the handbook due to language barriers. If you have a significant number of employees who do not read or understand English, you may want to consider translating the handbook into another language so it can be understood by all. • Have policies that conflict with or contradict each other as this may be confusing for employees and may lead to misinterpretation and possible litigation. • Use language that makes too many promises or guarantees on the employer's part. For example, instead of stating that you "will" or "shall" state that you "may" or "will make every effort to" or "will attempt to".

Finalizing and Distributing an Employee Handbook

Once all policy provisions have been drafted and reviewed, it is time to finalize the handbook and distribute it. In doing so, it is essential for you to obtain acknowledgement and consent from each employee indicating that the policies contained in the employee handbook have been received, reviewed and consented to. Further, you should conduct training on the handbook and all relevant policies so that employees and supervisors are familiar with it and understand it. The following are some issues to take into consideration when finalizing an employee handbook and distributing it:

DO	DON'T
<ul style="list-style-type: none"> • Determine the best method of distribution based on your particular workplace. For example, a traditional print copy method may be best for some workplaces while an electronic version may better serve other workplaces by saving time and expense in printing and updating. • Make sure that all employees know how to access the employee handbook at all times so they know what is expected of them. • Obtain a written acknowledgment and consent from each employee acknowledging that they have reviewed the handbook, read it and understand its terms and provisions. • Consider having employees specifically acknowledge certain policies (i.e., discrimination, harassment, confidentiality). You may want to use these later when proving a policy violation or proving that you followed workplace policy. • Train supervisors, managers and employees on the policies included in the handbook and how the handbook will be used by your company. • Be sure to abide by your obligations in the employee handbook. Avoid promises that cannot be kept. 	<ul style="list-style-type: none"> • Forget to have the employee handbook reviewed by an attorney to make sure it is legally compliant in all aspects. • Make the handbook so long and complex that employees cannot understand it. • Bury the handbook on your intranet so that it is impossible to find. Make sure it is readily accessible to all employees. • Make policies so comprehensive that they will cover every situation. Leave room for flexibility and discretion. • Forget to make sure the employee handbook reads as one cohesive document, written in the same tone with policies that do not conflict with each other and are consistent.

Creating an Employee Handbook as a Multistate Employer

A multistate employer often faces unique challenges in creating an employee handbook. If you are a multistate employer operating in different states and subject to various laws, you will not only need to cover federal law, but the law of each state and municipality that applies to different employees. If you are a multistate employer, you should consider the following:

DO	DON'T
<ul style="list-style-type: none"> • Adopt the approach that is best for your business as a whole – either (1) implement uniform policies across all states with the most lenient employee rights and benefits, (2) provide a general national handbook and state-specific supplements or addendums to capture state and local differences, (3) prepare a very general handbook indicating that you will follow all applicable federal, state and local laws or (4) prepare a specific handbook for each jurisdiction. • Be sure to address multistate aspects of topics such as equal employment opportunity discrimination and harassment, leaves, meal and rest breaks, access to personnel files, workplace accommodations, weapons in the workplace, smoking and texting while driving. • Take into account that states and municipalities often change their laws at a much more rapid pace than the federal government. Therefore, policies with state and local law may need to be frequently revisited and amended. Aim to keep them more general if possible. 	<ul style="list-style-type: none"> • Forget to include state-required notifications or municipal-required notifications in the employee handbook if you are obligated to provide under state or local law. • Neglect to address state or municipal differences in some way even if there is only one employee who works in a particular state or city. You are obligated to comply with the law.

Updating an Employee Handbook

Updating and amending an employee handbook to comply with the current law and to reflect the most up to date protections can be an arduous task. Best practice is to review a handbook on an annual or semi-annual basis to see if any changes need to be made or any policies need to be added based on changes within your company or legal developments. When updating and amending an employee handbook, you should keep the following in mind:

DO	DON'T
<ul style="list-style-type: none"> • Think of the handbook as a living document and one that will evolve as law, society and your business changes and develops. • Review the current handbook to identify inaccuracies and inconsistencies based on the law or your business practices. • Conduct research to identify changes in the law as well as current trends that may affect workplace policies. Decide if it is best to issue an entirely new handbook or exchange outdated policies for newer ones. 	<ul style="list-style-type: none"> • Neglect to obtain updated consent and acknowledgement forms indicating that employees have received, reviewed and agree to abide by the updated handbook policies. • Make policies overly complicated, confusing and detailed in attempting to revise old policies with new information. Start fresh if need be. • Forget to conduct training on the updated and amended policies for both employees and supervisors. Make sure to focus on any changes in the handbook which will affect workplace practices.

Creating and Updating an Employee Handbook Has Never Been Easier

Simplify the process and remove the stress from building and revising your employee handbook with XpertHR's Employee Handbooks tool, created in partnership with top global employment law firm, Littler Mendelson.

The Employee Handbooks tool features:

- **Authoritative Content:** written by the seasoned attorneys of Littler Mendelson
- **Comprehensive Coverage:** the most current and robust federal, 50-state, and key municipal content
- **Clear and Succinct Guidance:** know what each law means, its implications, and when to include certain policy statements

See what our Employee handbooks tool can do for you...

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