



SIVIA

Business and Legal Services, P.C.

Special Reports

Protecting Your Assets,
Growing Your Wealth...
You're Trusted Legal Advisor.

Your company needs an employee handbook or personnel manual to ensure that everyone understands the policies, procedures, and rules. But improperly drawn, a handbook can create a binding obligation that can be used -against you.

Reasons You Need an Employee Handbook

What you don't want is for those documents to be interpreted as an employment contract. Keep that in mind when drafting your company's employee documents so you lower the risk of running into unwanted legal hassles. The following are some benefits of an employee handbook:

- Provides a blueprint for standardized and consistently applied personnel policies.
- Defines your standards of performance and conduct.
- Orients newly hired employees to their position and communicates your company's standards in a less time consuming and more standardized way.
- Provides a common understanding between your company and the employee regarding performance standards and acceptable workplace behavior.
- Clearly defines expectations regarding sick leave, payday and other benefits, providing a mechanism to consistently monitor and address abuses.
- Specifically informs all employees that their employment is at-will, foreclosing any lawsuits for breach of an implied contract of employment.
- Reduces the risk of employment discrimination suits because it provides for the consistent application of your policies.
- Reduces the risk of employment discrimination suits and an award of punitive damages against you by specifically outlining your harassment and discrimination policies and the mechanism for reporting any violations if that policy so you can take appropriate action immediately.

Additionally, you should seek legal counsel to draft or review your employee handbooks because of the possible consequences that can affect you and your business:

- SBLS attorneys know the appropriate language necessary in an employee handbook to provide for management flexibility in running the business.
- SBLS attorneys will explain the provisions of the handbook to your managers and provide training on how to un-informally apply the handbook's standards.
- A poorly drafted or ambiguous handbook pulled from the internet, which is not designed specifically for your company, is an ineffective tool.
- A poorly drafted handbook created confusion for management and the workforce rather than providing uniform understanding.
- A handbook that has not been examined by an attorney may include unlawful provisions which create liability for the employer, or may fail to include all necessary lawful provisions for your company's size, your company's industry and the state(s) in which you operate.
- SBLS attorneys know how to draft a handbook that contains the necessary disclaimer language that allows the employer to terminate an employment relationship at-will. Failure to include the necessary disclaimer can create an unintended contract for employment. Failure to include legally drafted state specific anti-harassment and anti-discrimination policies in an employee handbook may preclude the employer from certain defenses in harassment or discrimination claims.

Many states have held that employee handbooks can be enforceable contracts. Some courts have even found that handbooks or manuals create a presumption that the parties intended in to be a contract. That forces the employer to prove to a jury that a contract wasn't intended.

However, there are instances where courts have found handbooks unenforceable for various reasons:

- The terms were so ambiguous that the parties couldn't have intended to create a contract.
- The handbooks were distributed to employees after they started working for the company.
- An "at will" termination clause was included.

Although these exceptions exist in some states, don't rely on them when drafting and distributing your manuals and handbooks. It's a good idea to get professional help when spelling out your policies and procedures. You will reduce the chance of a costly, time-consuming, disruptive legal battle.

SBLS attorneys have years of experience in drafting employee handbooks and policies in various states and for companies of all sizes. We can draft employee handbooks and policies, or review your existing employee handbooks in a cost-effective manner, giving you the peace-of-mind that you are fully compliant with the law.

For more information, contact Sivia Business and Legal Services, P.C. at (618)659-4499.