

## Is Your Employee Handbook A Well-Written Novel or a Horror Story?



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The beginning of the year is an excellent time to review employee handbooks and consider making changes. Now is an excellent time for employers to adopt employee handbooks that will read like a well-written novel, rather than a horror story.

A properly drafted and distributed employee handbook with an acknowledgement of receipt is primarily a business tool that will reduce the risk of liability for the company. An employee handbook with a clearly defined complaint procedure, will minimize exposure to harassment and discrimination claims. Proof of the acknowledgment of receipt is a key component to an effective handbook.

Employee handbooks should preserve the at-will employment relationship at all times and clearly detail all workplace-based employee rules. The at-will employment language maintains the ability of the employer to fire at will. The employee handbook should be fashioned so that it will never be interpreted as an employment contract. All at-will employment disclaimers and any language regarding probationary employment status should be prominently identified.

One of the important chapters of the employee handbook is the portion covering the Equal Employment Opportunity and anti-discrimination policies. Employers should include each protected category in EEO and anti-discrimination policies. The handbook should contain a clearly defined complaint procedure. The complaint procedure should state that complaints of discrimination and harassment will be properly investigated. Language should be included to prohibit discrimination and harassment based on race, gender, color, religion, national origin, disability and

age. Additional categories may also be required by state or local law. Prohibiting carrier status or genetic based discrimination should also be included.

Courts and the Equal Employment Opportunity Commission are looking at whether employers are properly categorizing employees as hourly or salaried. This issue should be covered generally in the employee handbook. Your handbook should also have a carved out section covering your Americans with Disabilities Act policy.

Wage and hour issues are another important component of an employee handbook. Your handbook should cover overtime authorization, and include a Fair Labor Standards Act Safe Harbor provision that preserves an employee's exempt status in the event of an improper pay deduction. All rules regarding the calculation of time and the method to accurately record time should be clearly set out in detail.

Your company may decide to adopt a social media policy. The handbook is a great place to reference this policy. The policy should be comprehensive and clearly communicate the company's expectations regarding the use of social media in the workplace. Issues involving the use of the company's name and likeness should be covered and should generally be restricted without advance approval.

With the help of competent counsel and management working together, your employee handbook will read like a classic novel and your company will avoid the horror stories associated with a poorly drafted employee handbook. **AT**