

## Guest Perspective

# Precise employee handbooks save business headaches

**BUSINESS OWNERS** can disagree about what the most essential tools are for operating a business. No law requires you to have an employee handbook but it is a critical tool to help communicate to your employees the company's rules and expectations. And it will help your supervisors do a better job of keeping you out of trouble.

The following discussion underlines important policies in an employee handbook:

**Vacation:** In Louisiana, vacation time is considered an earned wage and cannot be forfeited. All earned but unused vacation must be paid at termination regardless of the reason for termination. Your policy should clearly set out how and when vacation is earned. Whatever is in an employee's "vacation bank" at termination must be paid to that employee by the applicable time limits.

**Sick leave:** Sick leave should only be paid time off if the employee is sick. If employers fold sick leave into vacation for the creation of a paid days off account, for example, sick leave may be due an employee upon termination.

**Health insurance:** Detailed health and welfare benefits information is dangerous because an employee may rely on information in the handbook even when the specifics of the benefit plans have changed. Any reference to health or welfare benefits in a handbook should be as brief as possible. All employees must receive summary plan descriptions detailing these benefits and should rely on that only.

**Family and medical leaves:** The Family and Medical Leave Act applies to employers with 50 or more employees and allows eligible employees 12 weeks of protected, unpaid leave in any designated 12-month period for family related medical conditions. FMLA policy is mandatory for covered employers with a handbook. The policy must contain sufficient information to apprise employees of their rights and obligations under the law.

**Maternity leave:** Louisiana mandates maternity leave for employees is six weeks for a normal delivery and four months if the employee is disabled. Unlike FMLA, employees are immediately eligible and leave runs concurrently with FMLA leave, if applicable.

**Sexual and other harassment policies:** A strong anti-harassment policy is helpful in protecting employees and employers. The policy should include: a clear statement harassment of any type is forbidden; illustrative examples of harassing conduct; a procedure for reporting harassment, including specific individuals to receive complaints (upper management — not first-line supervisors, and possibly a phone number; and an anti-retaliation provision.

Also, considering the possibility the employer's immediate supervisor may be the



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alleged harasser, the policy should list managers other than the supervisor to whom an employee can complain.

**No solicitation policy:** Often an employer's no-solicitation policy is too broad wherein the employer prohibits solicitation on company premises at any time. This violates the National Labor Relations Act.

An employer must allow employees the opportunity to solicit each other

while not working such as on breaks, lunch periods and before or after work.

**Discipline:** Flexibility is the key with any published discipline policy. Many times employers segregate violations as first-warning offenses, suspension offenses or termination offenses. This is problematic. All infractions should be listed together and employers should reserve the right to take any discipline, up to and including termination, for the violation of any rule or the commission of any offense.

**Internet access/e-mail/voice mail policy:** In order to reduce the potential of liability from lawsuits alleging sexual harassment, defamation or invasion of privacy, employers should create and implement a clear e-mail, voice mail and Internet policy to reduce employees' expectations of privacy, as well as set clear boundaries for employee conduct with respect to electronic communications.

**Drug testing:** A drug test policy may contain provisions on pre-employment, random, reasonable suspicion or post-accident testing. Employees should also be made aware that a positive test screen may result in the disqualification of workers' compensation and/or unemployment benefits.

**Handbook disclaimer:** The disclaimer should indicate employment is at will and the handbook does not constitute a contract of employment and no one has the authority to create any contract of employment other than one specified individual.

**Signature page:** The signature page on the employee handbook is extremely important. Once signed by the employee, the page should be removed from the handbook and placed in the personnel file.

**Other policies:** Other provisions typically seen in a handbook include an Equal Employment Opportunity statement and policies related to holidays and military, jury, funeral or personal leave.

Handbooks are necessary to provide organization and peace of mind for employees. They provide guidance to your management team. But like your car, your handbook should be regularly inspected and fine-tuned to stay current with applicable legislation and case law.

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