

Presented:
19th Annual Labor and Employment Law Conference

May 17 – 18, 2012
Austin, TX

Handbook Helper: Recipe for a Better Handbook

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Employee handbooks can be an employer's best friend or its worst nightmare. When written carefully, kept current and applied uniformly, they aid recruitment, provide the means to have consistent application of policies, communicate the "culture," enhance employee relations and can be part of an employer's defense against various employee claims. When not prepared, maintained and used correctly, they fail to provide those advantages and can be the catalyst for distrust, unrest, union organizing efforts and a host of individual and collective legal actions against the employer.

With so much at stake, employers should recognize that a handbook is a process, not an off-the-shelf product. An extraordinary meal requires thought, planning, the right ingredients and skillful preparation. Before a new handbook is created or an existing handbook is updated, take the time to identify and organize the ingredients needed to achieve crowd-pleasing results.

1. What are you hungry for?

After weighing the pros and cons of employee handbooks (and assuming you've decided you want one), start by identifying who will be involved in the process. Will it be exclusively assigned to the Human Resources department with a final overview by labor and employment counsel? Is there a labor union which must be consulted and involved in the discussion of terms and conditions of employment? Are there layers of approval to be obtained, such as between a subsidiary and its parent organization? Are you willing to ignore the old adage about "too many cooks in the kitchen" and involve others in the process? Would it be helpful to have representation from various departments of the organization? Much has been written about the ways that different age groups (e.g., Traditionals, Boomers, Gen X, Gen Y) perceive and respond to communications and control, so does it make sense to seek input from each group? Are you really brave and willing to put your policies out there and invite input from everyone via a wiki?

The next step is to consider where you will start the process of drafting the document. Do you want the equivalent of take-out food, by using available software, templates and how-to guides to create your handbook? Are you in the mood to reheat left-overs, by starting with your existing handbook? If none of these sound appealing, perhaps you are ready to bake from scratch and start with a completely clean slate?

Now take a look at how many you have to serve and how you will serve them. Do you have a single location, or many employees spread out across multiple states? Overseas? Multi-state employers have a threshold decision to make due to variations in state law. Do you plan to identify the "lowest common denominator" and apply that approach to everyone, for consistency and fairness? Or do you want to do only the minimum that's required in each jurisdiction? One example of this is jury duty, where state law can range from nonexistent to requiring full pay continuation for the employee/juror, regardless of the length of the trial. Do you have varying benefits for different classifications of employees and do you want the "have nots" to see what the "haves" are getting? Do you want your handbook to do double duty as a procedure manual for your managers? Before saying "yes" consider that any manager's failure to follow your guidance will be apparent

to employees and the guidance becomes “Exhibit A” for the unhappy employee/charging party/plaintiff.

2. Assemble the ingredients

The last phase of preparation before cooking begins in earnest is to assemble the ingredients. Most cooks have a decently stocked pantry, but will still need to go to the store and add missing items and fresh ingredients. The same can be said for handbook preparation. Begin by looking within your organization for what you will need. Do you know how many employees you have and where they work? Headcount and location play a major role in determining the applicability of federal, state and local laws. Do you have the most recent version of an existing handbook, so that you know the current employer obligations and/or employee expectations? Are there interim policy statements that were issued piecemeal, which should now be incorporated into the handbook? Are there separate procedural manuals which both inform the process and may be need to be revised to be in synch with new or changed policies in the handbook? Are any employees in your organization subject to one or more collective bargaining agreements? Do you have forms that are being used and are they in synch with your policy statements? Obtain the latest versions of your benefits plan documents, so that your handbook benefits descriptions are consistent with the official version. Are there any acquisitions or divestitures planned which will impact the headcount and geographic location of your staff? If your organization has government contracts, find out the dollar amounts as some statutes (e.g., Drug Free Workplace Act) and executive orders (E.O. 11246) may apply and trigger language requirements in your handbook.

Some of the “fresh” ingredients you may need to shop for are a broad understanding of current federal, state and local law and regulations. Most savvy employers have a good understanding of federal employment law, but often whiff on state law variations (e.g., employee access to personnel files, leaves of absence) and completely ignore local ordinances (e.g., smoking in the workplace). You can acquire legal know-how by researching the law yourself or enlisting the aid of a labor and employment lawyer who eats, drinks and sleeps this type of law. You may also want to get your hands on standards that are unique to your industry and consider customers’ requirements.

3. Cooking tips

The best cooks have, through a combination of training and experience, learned certain ways of producing a high quality product. Whether it was hours spent in the kitchen as an assistant to a parent or grandparent who cooked, taking classes on how to expertly wield a knife or simple trial and error, certain axioms of good cooking apply to any kind of cuisine and have withstood the test of time. The same is true of crafting the best possible employee handbook.

One tip is to carefully consider the tone of the handbook. Start it with a Welcome statement, rather than the legal disclaimers. Use plain language. Strike a balance between giving too much and allowing too little. Promising job security and excessive

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First appeared as part of the conference materials for the
19th Annual Labor and Employment Law Conference session
"Handbook Helper: Recipe for a Better Handbook"