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THE ORANGE COUNTY BAR ASSOCIATION



OCBA Charitable Fund 26th Annual Judge Kenneth Lae Charity Golf Tournament Pelican Hill Golf Club®



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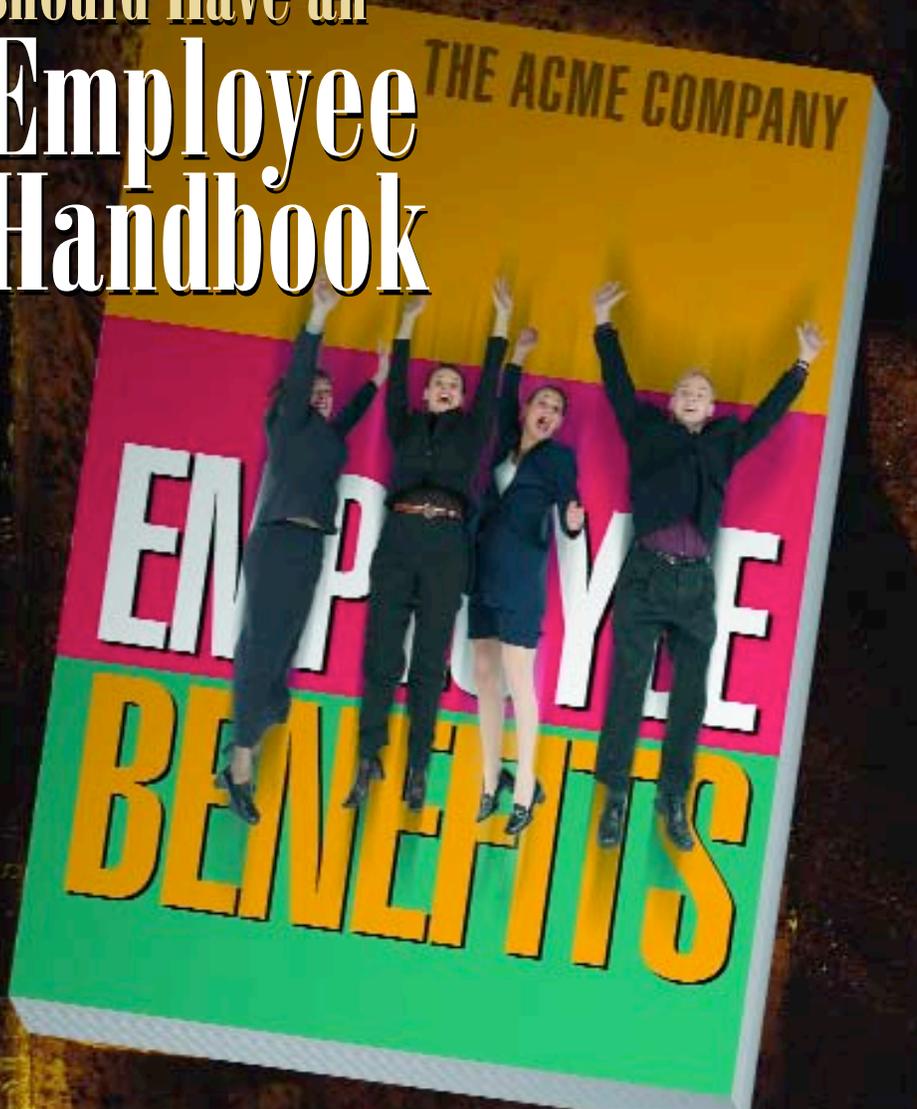
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Ten Reasons Every Employer Should Have an Employee Handbook



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by Jennifer L. McClain

An employee handbook is a set of written policies that can be a powerful tool for businesses. The handbook sets out all the policies that a company uses in the regular course of business, explains company programs, and communicates general information. Having a handbook can reduce mis-communication with employees, ensure consistent application of policies, and avoid unnecessary lawsuits. The handbook should be a guideline, not a contract. It should allow employers to revise the contents as needed. Here are the top ten reasons every employer should have an employee handbook.

I. Reinforcement of the “At-Will” Provision

One of the most important employment policies in an employee handbook is the “at-will” provision, which gives an employer the right to terminate an employee at any time and permits an employee to quit at any time. While California law presumes the employment relationship is at-will, this presumption can be rebutted by evidence of a contrary agreement. By setting out the at-will policy in a handbook, the employer has a powerful tool that documents the at-will policy.

II. Communication of Important Policies

Employees and human resources personnel waste valuable time when employees have to ask dozens of questions to learn basic company policies. Frequent questions such as what days the company is closed for holidays, when overtime pay is due, and what the employee should do if time off is needed, are often easily explained in a handbook. The handbook is also an ideal method to provide all the information that employers are legally required to provide. For example, California law requires employers provide information on the *Paid Family Leave Act* and information about pregnancy leave rights. Instead of having several individual memos and sending informal email messages on the various issues, it is much easier to compile all the important policies in one place that can be easily accessed when needed.

III. Creation of Uniform Policies

When there are no written policies, past and current practices become the default policy. The haphazard method of putting together policies on the fly may not be the best way to do business. When an employer takes care to craft policies that will work for the particular company culture, and communicates the policies in a clear manner, the company will be able to operate the business more effectively by reducing the administrative burden. A written policy will reduce many disputes regarding what is the company’s policy. Spending a little time to create a positive message for employees can also increase employee morale and focus the company’s mission.

IV. Standardize Enforcement of Policies

There are many occasions when employees ask their employer to do something outside of the normal process, such as to take some extra

time off from work, get an advance on their paycheck, or to be reimbursed for an educational class. It can be difficult to track which time the request was granted or what was told another employee is the “policy.” If an employer permits the request for certain employees and not other employees, it can raise allegations of illegal discrimination. Having a written policy that both the employer and employee can refer to when these situations arise can avoid unequal applications of the policy.

V. Familiarize Management with Policies and Laws

A great policy is ineffective if no one knows what it is. By formalizing the policies that are already in a written handbook, a company can easily train management and supervisors on the rules of the game. The handbook is a supervisor’s reference manual that can be quickly reviewed to answer employee questions. Once each manager or supervisor is informed of the policies and procedures, the manager is able to ensure that his or her employees are following company protocol. The handbook also provides reinforcement to supervisors for the need to understand company policy and manage their direct reports in a fair and consistent manner. Newly promoted supervisors who have not had any previous direct reports can use the handbook as an orientation to the company’s policies and quickly learn the important employment related laws.

VI. Documentation of Expectations

Companies often struggle with common problems such as an employee who frequently calls in sick the day before a holiday, the employee who takes long lunch breaks, or an employee who does not understand the correct attire to wear on casual Friday. The handbook is a roadmap that sets forth the common expectations for both the employer and the employee. Additionally, new employees can be quickly brought up to speed regarding the expectations and policies. The distribution of uniform policies puts all employees on notice of acceptable workplace conduct and informs employees that discipline may result from failure to follow the policies.

VII. Ensure Compliance with Laws

Many areas of the law can easily trip up a seasoned human resources person and cost the

company time and money when a law is violated. The handbook is documentation that your company is committed to compliance with employment laws and regulations on both the state and federal level. Failure to comply with acts such as the *Family and Medical Leave Act*, California’s *Fair Employment and Housing Act*, the *Americans with Disabilities Act*, and the *Fair Labor Standards Act* can lead to costly fines and penalties. Furthermore, the relationship with your employees is strengthened by acknowledging the company’s intent



Companies spend large amounts of money on benefits for employees but often do not explain this cost or benefit to the employees. Employees may not appreciate the employee-friendly policies if the policies are not clear. The handbook is a great way to announce the solid company ethics and strengthen employee morale.



to adhere to equal opportunity guidelines and other employment laws.

VIII. Reduced Risk of Employee Lawsuits

A large cost of doing business is the expense related to management of employees and the cost of defending a suit when something goes wrong. A well-drafted employee handbook can minimize the risk of arbitrary conduct by managers or supervisors, which leads to employee lawsuits. Additionally, an employee handbook prevents misunderstandings about policies, confusion regarding when the policies apply, and reduces complaints by giving all

employees the same resource for company policies. The handbook also reduces the risks for a variety of wrongful termination suits by expressly setting forth the at-will provisions, listing forms of prohibited conduct, and stating that a violation of the prohibited conduct may result in termination.

IX. May Be Used as a Defense in Employee Lawsuits

When a company has a well-drafted employee handbook (including a good Index) that sets forth the company’s policies and those policies are enforced uniformly, it can limit a company’s liability in a lawsuit. For example, an employer will be better able to defend itself against a sexual harassment suit if the company has a written policy prohibiting harassing conduct. Each employee should *sign an acknowledgment* that they have received, read, and understand the contents of the handbook. This acknowledgment will be vital should you need to show that the employee violated a company policy or if you need to enforce a policy. The copy of the policy and a signed acknowledgment from the employee go a long way in showing that the company has defined procedures that the employee did not follow.

X. Promotes Positive Company Image by Setting Forth Benefits and Company Ethics

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While employers are not required by law to have a handbook, having written policies that everyone can refer to will reduce the chance of mis-communication and save time in answering the same questions. It is important to update the handbook at least once a year for changes in the law and to ensure that the policies that were adopted actually work in practice.



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