Recruitment, Retention & Technology: Essential Handbook Policies To Implement All Three Goals

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Ground Rules

- Let me sound like a lawyer...
- Disclaimer - Information not legal advice
- This is an overview of federal law - state and local laws also may apply
- Whichever law benefits employee most prevails
Handbooks

- Boring, laborious but critical
- First place a litigious employee or a plaintiff’s lawyer looks
- First place defense lawyer looks for exhibits
- First place government looks in an investigation
Handbooks

- One handbook for all employees
- Keep it brief
- Keep it current
- Proofread
  - Don’t use other agencies’ forms
  - Spell check!
Policies

- Essential Policies
- Optional Policies
- Don’t have to explain all the details of how you run your business
  - i.e. How to answer the phone
  - This is not a job description
Starting Off

- Introduce yourself!
- Say something nice about the company and welcome people
About The Handbook

- These are our rules
- Supersedes prior policies
- You need to follow these rules
- We can change them (except at-will)
- If you don’t understand these rules, please contact us
At-Will

- Most important policy that you have
- Applies to all employees
- Can’t be changed except in very limited circumstances
- This isn’t a change from prior policy
- Mention throughout the handbook
Equal Employment Opportunity

- We don’t make decisions based on legally protected characteristics
- We will engage in an interactive process with applicants and employees who need reasonable accommodations
- No retaliation
No Harassment, Discrimination and Retaliation

- Prohibit such conduct
- Report it
- Alternate option to report to someone other than a supervisor
- No retaliation (this is a theme)
Threats and Violence

- Prohibit such conduct
- Report it
- No retaliation
  - I told you it was a theme
Driving

- Comply with all applicable laws
- Maintain valid driver’s license and insurance
- If own car, maintain registration and operation
- Notify of any changes
Personnel Files

- You will maintain them
- Employees have obligation to keep information current
- Important for payroll and final paycheck purposes
Pay Periods

- Frequency
- Define work week and work day
Keeping Track of Hours Worked

- Track working and non-working time for non-exempt employees
- Don’t work off the clock
- Don’t alter time records
Overtime

- May ask you to work it
- Must get approval in advance
  - If not, still must pay for time worked but can discipline
- What it doesn’t include
  - Non-working time
  - Holiday pay in some cases
Holidays

- Not required to pay extra
- If you do, say how much and what days
- Not included in regular rate for overtime purposes (in certain circumstances)
Wage & Hour Rules

- **Travel Time**
  - Can pay different rate
  - Employees should log time

- **On Call Time**
  - Must pay for actual hours worked, including overtime for non-exempt ees
  - Must log time worked for non-exempt ees
  - Be careful of stipends!
Wage & Hour Rules

- Regular rate for overtime calculation purposes
  - Must include performance-related bonuses and non-discretionary payouts
- Define working and non-working hours
  - Especially important for live-ins
Payroll

- We try to get it right
- But if we don’t you should notify us immediately and we’ll look into the problem and rectify it ASAP
Job Duties

- No medical procedures
- Not nurses, CNAs or CHHAs
- Sleep Time
  - Explain requirements
Job Duties

- If working conditions aren’t followed notify you immediately
- If don’t notify you, agree that you did follow policy
- Comply with all laws and policies
Other Employees

- **Exempt**
  - Fixed salary for all hours worked
  - No overtime

- **Non-Exempt**
  - Hourly, must track time
  - Outline overtime and meal and rest period rules, if applicable
Performance Reviews

- Don’t set fixed schedule
- Meet when you feel it’s necessary
- Encourage employees to come to you with questions and concerns
Attendance

- What to do if you’ll be absent or late
  - Who to call
  - When to call
  - How often to call
- Three consecutive unexcused absences
Substance Abuse and Testing

- Not required but advisable
- Need a policy if you’re going to test
- Marijuana
- Exception for company events that serve alcohol
- Test refusal or interference with investigation
Dress Code

- Neat and appropriate
- Provide examples
- Contact with questions
- Safe harbor provision - not enforce to violate legally protected rights or practices
Leave Policies

- Closely scrutinized by employees
- Reasons for leave
- How and when to request a leave
- Documents to substantiate leave
- Use of paid time off
Leave Policies

- Benefits during leave
- Other employment while on leave
- Notify when returning from leave
- Fitness for duty certificate
FMLA

- No need to write this yourself
- Use the link to the policy online:
Time Off To Vote

- Limits on when and how much
- How to provide notice
Jury Duty

- Notice
- Documentation
- Return to work when not serving
Right to Inspect and Monitor

- You own your technology
- Can override passwords and no right to or guarantee of privacy
- You can access anything
- Don’t send or receive stupid or illegal stuff
Works for Hire

- You own all intellectual property created while someone works for you
- They will cooperate to ensure that you retain ownership
Confidential Information

- Define it, but don’t be overbroad
- You own it
- Employees can’t disclose it - even after they leave
- Prohibit disclosure of others’ confidential information
Conflicts of Interest

- Duty of loyalty while working for you
- Be careful about non-compete provisions
- Vendor relationships
Relatives

- Rules for subordinates and co-workers
- Reasons you can prohibit - safety, security, morale and business operations
Workers’ Compensation

- Immediately report all accidents and unsafe conditions
- Not a substitute for Injury and Illness Prevention Program
Benefits Disclaimer

- Absolutely critical
- If handbook policies conflict with insurance or other benefit rules, the insurance and benefit rules govern
Social Media Policy

- Not required, but advisable
- Legally can be treacherous
- Prohibit posting during work hours or on your equipment without permission
- Can’t use company logos or trademarks
Social Media Policy

- Speaking personally, not as company representative
- Comply with all applicable laws and policies - even though employee is online, real world rules apply
- Don’t do stupid stuff online
Social Media Policy

- Don’t disclose confidential information about company or clients
- Report problems
- Employees will be held responsible just as in real life
- Safe harbor statement
Solicitation and Distribution

- Optional but advisable
- Important re unionization
- Solicitation and Distribution: Never during “working time” - define
- Can solicit in work areas during non-work time but no distribution in work areas at any time
- Be consistent
Bulletin Boards

- Optional but advisable
- Only company material
- Prior approval required
- Must apply consistently
Standards of Conduct & Discipline

- Employees scrutinize this policy closely
- Not meant to be an all-inclusive list
- Not required to follow certain order of disciplinary steps
Standards of Conduct & Discipline

- Can discipline for any unprofessional behavior, misconduct or anything that interferes with company operations
- Give examples
- Reminder re at-will employment
Termination

- It happens, so you should have a policy about it
- Exit interview
- Return of property
- No copies
- Clear all expenses
References

- Requested in writing
- What information you will provide, if any
- Who will provide it
- Legal dangers of references
Acknowledgement

- Critical document
- Always keep signed copy
- Can’t enforce policies unless you distribute them
- And the best way to prove that an employee received the policy is via a signed acknowledgement
Acknowledgement

- Critical defense exhibit
- Received, read and will comply with policies
- Reiterate right to change policies (except at-will)
- Reiterate at-will (everywhere you can)
Acknowledgement

- Handbook supersedes and replaces prior policies
- Report questions or concerns
- Outline what happens if fail to follow policies
- Print, sign and date
- Give copy to employee
Other Policies

Questions about other policies
Questions

- Feel free to contact our firm:
  - info@legallynanny.com
  - 714-336-8864
- Or visit our Web site:
  - www.legallynanny.com
Questions

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