

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:
<http://www.dol.gov/whd/regs/compliance/posters/fmlaen.pdf>



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

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Questions

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