

Whose Turn Is It to Bring the Coal? - Thinking about Employee Handbooks

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Employee handbooks have been around a long time. At the dawn of the industrial age, employers published lists of rules and duties. A list of rules for bank clerks in the 1870s included this gem: “Each man must provide one day’s ration of coal per week for the heating stove in the workroom.” Back then, employee lapses were met with immediate dismissal – pity the poor man who couldn’t afford the coal on his meager wage. There wasn’t corrective action or progressive discipline for our hearty ancestors. Today, we are more enlightened. We wouldn’t think of asking employees to chip in on the electric bill to help pay for summer air conditioning – or would we?

Today’s employee handbook should function as a management tool with its main purpose being to provide employees with basic information about the company, policies and benefits – ensuring that everyone gets the same information in the same way. The writing style should be motivational but maintain management rights – a tightrope, at best. A comprehensive handbook helps supervisors and managers address problems. It should provide basic guidelines on performance and conduct expectations, disciplinary and corrective action, compensation procedures and a host of other topics. A well-organized and well-written handbook remains a valuable resource for everyone.

A poorly written handbook is a smoking gun. Volumes of case law indicate that handbooks can become employment contracts. While most states still observe the doctrine of “Employment-at-Will,” certain language in the employee handbook can create a contract. For example, the phrase “permanent employee” has been interpreted to mean there are practically no good reasons to fire someone.

Some handbooks are just books of rules (much like those from 1870) that negatively affect employee attitude. Put yourself in the place of a new employee, excited about your new job and the first day on the job you get a book of things you cannot do. Even if they are reasonable rules intended to lead to harmony, efficiency and safety, most people are turned-off when presented with that type of handbook. I have noticed that a certain percentage of the population takes a rule as a challenge – not a warning.

About four out of five handbooks I review include at least one policy, procedure or rule that is not legal. Most of these have to do with pay – overtime, docking and unauthorized payroll deductions. Even when there is a good reason for a certain policy, if it’s not legal – it’s not legal. There is almost always another perfectly legal way to accomplish the goal. It just takes some thought to figure it out.

So what can you do? If you have a handbook, sit down and read it through – preferably in one sitting with a red pen in your hand. Do this in private. It might help to pretend you are a new employee. Are you positive all your policies and procedures are legal? Does your handbook include an “at-will” statement? Does any language guarantee employment? Does your business size require a comprehensive FMLA policy? Do you have a policy on sexual and other types of harassment? What about computer and Internet use? How about e-mail and employee privacy? Do you test for drugs? Alcohol? Have your benefits changed? What about COBRA and HIPPA? If you aren’t sure whether your handbook is legal or complete, find a human resource professional (or an employment law attorney) to review it.

If you do not currently have a handbook, you may need one if you have:

- 20 or more employees
- multiple locations
- high turnover
- behavior or performance issues
- folders full of memos to employees/managers about policies and benefits
- difficulty figuring out who is responsible for bringing the coal

In today's Internet world you can go online, download a prewritten employee handbook and just fill in the blanks. I don't recommend this "McDonald's" approach, even though it's cheap and fast. To create a well-written handbook, you must think through your policies and requirements. You need to make not only practical decisions, but philosophical ones as well. Creating a useful handbook is a process that works best when there's some dialogue involved and it takes time.

If you would like to discuss your current handbook or are considering creating an employee handbook, I would be happy to talk with you. You can reach me at 800-683-3440 or e-mail lesley@taxfavoredbenefits.com