

# HR INSIGHTS

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## Employee Handbooks: Common Legal Mistakes

Your employee handbook is an important document. Not only does it help employees understand company policies, promote solid company-employee communication and set a consistent standard of expectations, but it can also have serious legal ramifications.

In many employment lawsuits, your handbook will be a key piece of evidence that can either protect your company or provide ammunition for the employee (or former employee) who is suing you. It is vital that your handbook is thorough, up to date, legally compliant, understandable and readily available to all employees. It is also wise to make employees sign a form stating that they received and reviewed the employee handbook, so that they cannot later claim during a lawsuit that they were unaware of a particular policy. The following areas are examples of common legal mistakes employers make with their employee handbook.

### Changing Laws and Requirements

It is vital that you update your handbook regularly to comply with new and changing laws, both federal and state. In addition, you should provide employees with all handbook updates (or notify them if the handbook is published online). For significant legal changes, you may want to have employees sign another document acknowledging that they are aware of the altered policy. In addition, it is a good idea to have a disclaimer that the handbook may change at any time.

### Employee Rights

Many handbooks make the mistake of outlining employer rights but glossing over the rights of employees. Some employers fear that including employee rights will encourage more employees to file lawsuits, but omitting them leaves you open to significant legal liability.

### Employment Relationship

Your handbook needs to be explicit about the at-will employment relationship – that the employer (and the employee) has the right to terminate employment at any time, with or without cause. Also, be sure you don't have other policies that undermine this one, such

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as probationary periods (which can sound like employment is guaranteed for at least as long as the period) or progressive discipline policies (which may not clarify that an employee may be terminated at any time).

### **Exempt or Non-exempt Classification**

Wage, hour and overtime complaints are among the most common legal actions taken by employees or former employees. Be sure your handbook is clear in the distinction of exempt and non-exempt, and that all employees are classified properly. Also make sure that your overtime policy complies with state and federal laws. For instance, if you have a policy stating that overtime must be approved, you cannot mandate that unapproved overtime will not be paid - you are legally required to pay it. You can, however, otherwise discipline employees for violating such a policy.

### **Computer Usage**

Your handbook must make clear that the company owns its computers, email and all data, and that nothing on a computer is private. You should also have clear policies if your employees have other electronic company devices.

### **Follow Through**

Providing a comprehensive, compliant handbook is only the first step – your company must always follow through with the policies outlined. For instance, if your handbook discusses a specific procedure for conducting performance reviews, it is important that you follow it.

Because employee handbooks are so important, consider having legal counsel review yours periodically to help keep your company out of legal trouble.

