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The many reasons to have an employee handbook

Law Talk

By Denice A. Gierach

In this tough economy, hardly a week goes by where I don't hear from people who lost their job. Sometimes, they call to review a severance agreement. Many times they call asking if they have a claim for "wrongful discharge."

Sometimes, an employer will get claims of this nature against them, even though they think their employees are hired on an "at-will" basis. Could these claims be avoided? This is one of the reasons to have an employee handbook.

Large Fortune 500 companies always have an employee handbook to summarize their policies toward employees. The law does not require that your company have an employee handbook. However, if you do not have an employee handbook, your policies may not be clear to your employees.

Your managers in your company will also have to rely upon memory of what has been done in the past to ensure your company's policies are being correctly and consistently applied.

Also, without a written policy as contained in an employee handbook, there is no proof that you made employees aware of your policies or rules. This may create an enforcement issue, and maybe a legal issue later.

You don't have to be a Fortune 500 company to have an employee handbook. Even small companies can benefit from a simple employee handbook that contains some basic items. A smaller company needs to write an employee handbook to allow the employer to continue to have the discretion and flexibility, and yet give the employees notice of the general rules and what is expected by their employer.

No matter how small it is, the company still has policies, so it is important to write them down and summarize them in a handbook.

One of the most important items that should be in the employee handbook is a disclaimer. The disclaimer should be both at the beginning and at the end of the handbook and should state that the handbook is not a contract of employment. Absent such a disclaimer, a disgruntled employee might try to sue your company for breach of contract.

You should also have a policy written in your handbook which states that all employees are "at will." This reinforces the manner in which most employees are hired in Illinois. If your company wishes to hire someone for a term of a year or longer, your company will vary the "at-will" hiring by stating the term and other significant terms in a written contract.



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It is good to distinguish in the handbook about the difference between a part-time worker and a full-time worker, as some employee benefits are applied in that manner. It is not a good idea to use the word "permanent" when referring to a full-time employee, which may imply workers that cannot be terminated.

It is also important to state the company's policy on non-discrimination and sexual harassment, making sure it is clear the company will not tolerate either discrimination or sexual harassment. You will want to designate the person or human resource department to handle any such complaints filed by the employee.

In addition, having a written severance policy, especially for the mid-sized to larger company, is a good idea. Without the written policy, any severance offered by the company in one case might be used by another employee who was laid off to establish a pattern for the company.

With all of these nuances, it is important to have your employee handbook reviewed by an attorney who is well versed in employment law. Your attorney will make sure the handbook complies with federal and state laws, keeping an eye out for changes in the law. Your attorney can periodically update the handbook in light of these changes. He or she can make sure you are using straightforward language and that the handbook is not too long or too detailed to lose your company's flexibility.

Once you have created your employee handbook and your attorney has reviewed it, it is important to use it. Introduce the handbook to all current employees. Make sure all employees receive a copy and have them sign a receipt for the handbook.

All companies have policies – it's just very important to communicate them in an employee handbook.

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