

Davis Brown Employment and Labor Law Blog

Common Problems in Employment Manuals – November 18, 2020

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Every HR professional struggles, sweats, and possibly rips their hair out (if they have any) over what to put into an employment manual and how best to minimize litigation for their company in the future. However, worrying exclusively about liability rather than practicality can lead to some significant concerns. Here some common issues with employment manuals.



**Common Problems in
Employment Manuals**

1. Writing a policy you will never enforce

Writing policies that you can't or won't enforce creates significant liability issues for any company. It says, "we decided what the expectation was but we are choosing not to enforce that expectation."

This casts doubt on your intentions, your other policies, and undercuts your authority. Remember policies don't only need buy-in from human resources or the C suite, but also front-line managers. Policies need to be understandable and a priority for your front-line managers and team leaders for consistent enforcement of policies and practices.

No one wants a manager to say in a deposition, "I have never seen that policy before and I don't why we have it." Craft your policies with your actual practices and priorities in mind.

2. Writing a policy to cover every contingency

What kind of dress code will we have if a meteor hits the earth or there is a second ice age? No one can write a policy to cover every single contingency and the more complex and detailed a policy is the less likely it is to be effective.

Address the expectations and the guidelines for how those expectations will be achieved but leave yourself wiggle room to account for issues that you could never have anticipated. This can be as simple as saying in a disciplinary policy that the nature and type of discipline will be at the sole discretion of the company or stating that any policy is subject to change.

3. If I can't understand it, I can't do it

Many employees acknowledge in writing that they have read the entirety of the policy manual but most of them haven't. Employees tend to focus on things like how time is recorded, how PTO is accrued, and disciplinary processes, frequently giving little thought to most of the rest of the policies. Be clear, concise, and understandable. If you need a degree in higher mathematics to determine how PTO is accrued or used, the policy won't be helpful for your employees.

4. Trying to be all things to all people

It is tough to write a policy that everybody understands, loves, and celebrates. That policy probably doesn't even exist. When you try to make everyone happy with discussions of how you are all one big happy family, you set unreasonable expectations for the workplace.

Work is, quite frankly, work - it's not a holiday, it's not a family gathering (because hopefully we pay you to be there and we don't let you mouth-off and get drunk at the dinner table). Employees will appreciate clear, concise, and pragmatic policies more than open-ended promises of being treated like family.

The Big Picture – Be Clear and Consistent

Policy creation can be an intricate and complex process. Anyone who has ever written anything knows that making something clear and simple can be a lot harder than making it convoluted and complicated.

You need to be aware of specific laws for any state in which your company operates. In Iowa, there are special rules relating to Veteran's Day as a holiday, certain wage-hour issues, and the black hole of Iowa's drug testing law. Don't assume policies for one state will work in another.

Make sure policies are clear, consistent, and that they meet the needs in the place you are doing business.

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