

The background image shows a person's hands typing on a laptop keyboard. Another person's hand is visible holding a smartphone. The scene is lit with warm, golden light from a window in the background. A green semi-circular overlay covers the bottom portion of the image.

MLA

Michigan Library Association



MLA CONNECT

Webinar Tips

- Type questions for our presenters into the chat box. We will answer as many as we can during the one-hour time limit.
- Please select “all panelists and attendees” when typing a chat so fellow attendees can see if a question has already been asked.
- Your microphone is muted.

EMPLOYMENT POLICIES AND HANDBOOKS

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Employee Handbooks

**Why should an Employer have
an Employee Handbook?**

Purpose

- **The handbook will help everyone be aware of how to act and get things done efficiently, uniformly and appropriately.**
- **Employees and managers should be familiar with the handbook and use it as a guideline for employment benefits and work rules.**

Format

- Effective Date/Supersedes all others
- Easily Indexed
- Must be easily accessible by every employee
- All policies should be kept in one location
(Not some on intranet and some hard copy)
- Use Titles of Positions/Not names
- Separate Pages for Policies/Sections

Topics

- One size does not fit all.
- Depending on your size, needs and desires, you may not need everything that another library may have.

Employment Relationship

■ At-Will

- At any time,
- With or without notice
- With or without cause
- For any or no reason
- For an indefinite period of time

■ Just Cause

- Define it
- Alternative Dispute Resolution

Equal Employment Opportunity

■ EEO Protected Classifications

- Race, Color
- Sex (Gender & Pregnancy)
- Religion
- Age
- Disability
- National Origin
- Genetic Information
- Height
- Weight
- Marital Status
- Sexual Orientation

■ Persons with Disabilities Civil Rights Act

- 182 days of date knew or should have known to request accommodation

Harassment

- Based on protected characteristic
- Sexual harassment includes "unwelcome" sexual advances, requests for sexual favors, and verbal or physical conduct or communication of a sexual nature if:
 - 1. Submission to harassing conduct or communication is explicitly or implicitly a term or condition of employment of the complainant;
 - 2. Submission to or rejection of such conduct or communication is used as the basis or a factor of employment decisions affecting the complainant; or
 - 3. The harassing conduct or communication has the "purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment."
- Specific Reporting Chain
- Retaliation

Employment Status

- Full-Time/Part-Time
 - Define it
 - How to Calculate it
- Exempt/Nonexempt
- Temporary/Seasonal
- Employee vs Independent Contractor
- Volunteers

Timekeeping and Overtime

■ Timekeeping

- Time Sheet/Clock/Computer
- Allowed to “suffer” work standard
- Pay to nearest tenth or quarter

■ Overtime

- Specify OT over 40 in a week
- Compensatory Time?

■ FLSA Notice

- No improper deductions

■ Mileage/Expense Reimbursement

Employment Records

■ Personnel Files

- Employees right to review
- Medical files maintained separately
- I-9 forms maintained separately

■ References: Direct to one person and limit authorization

■ Performance Evaluations

- Don't use mandatory language
 - Frequency or timing
 - Wage increases

Social Security Number Privacy

- Don't release, except as required by law.
- No public display in any manner.
- Limit of 4 sequential digits on any document mailed outside the library, except as required or permitted by law
- Not to be used as passwords or identifiers for any library system.
- Only used to verify an identity or to administer employee benefits.
- Any documents that include social security numbers that are discarded must be shredded.

Working Hours

■ Meal Times/Breaks

- Paid and Duration?
- 20 minutes de minimis and should be paid
- Unpaid meal times; free of interruptions for work

■ Nursing Mother Breaks

- Required for up to one year after child's birth
- Must provide location other than a bathroom
- Paid?

Fringe Benefits

- Holidays
 - Specify which holidays are recognized
 - What are they paid if they work it?
 - Not hours worked for overtime purposes
- Vacations:
 - Accumulation schedule
 - Require or prohibit during specified time?
 - Use it or lose it?
 - Not hours worked for overtime purposes
- Sick/Personal Time:
 - Limit purpose of use?
 - Require RTW certification?
- Insurance:
 - Health (COBRA – 20 or more on typical day in preceding year)
 - Coordinate eligibility with insurance contract

Leaves of Absence

- FMLA - if at least 50 employees in 75 mile radius
- Michigan Paid Sick Leave Act – 50 or more employees
- Bereavement
 - Immediate vs extended family
 - Paid or unpaid
- Jury duty – paid or unpaid
- Military - Veterans Benefits Improvement Act extends COBRA to 24 months

Standards of Conduct

- Don't state "grounds" if at-will and include express at-will disclaimer
- Include in listing short prohibitions that don't require policies, such as:
 - Violation of policy
 - Horseplay or practical jokes
 - Deliberate or careless damage or unauthorized use of Co property
 - Misappropriation of Company's or another individual's property
 - Insubordination, disrespect, refusal to obey directives
 - Provoking a fight or fighting during working hours or on premises
 - Carrying firearms or other dangerous weapons, even with concealed weapons permit
 - Excessive absenteeism or tardiness
 - Abuse of paid or unpaid time off

Other Policies to Consider

- Attendance:
 - Define excessive
 - Be cautious with FMLA
 - Be cautious with salaried exempt
- Confidentiality:
 - Define what's protected
- Solicitation/Distribution:
 - No solicitation on working time
 - No distribution on working time and in working areas
- Conflict of Interest: Gift policy
- Dress Code: Maintain neutrality
- Limitations Period – 6 months

Substance Abuse

- Define what's prohibited
 - Illegal drugs, prescriptions, alcohol, marijuana
- Michigan does not limit an employer's right to enforce a zero-tolerance marijuana policy.
- Testing:
 - Reasonable suspicion/random/pre-employment/return to work
- Cooperation with Testing Process

Medical and Recreational Marijuana

This act does not require an employer to permit or accommodate conduct otherwise allowed by this act in any workplace or on the employer's property. This act does not prohibit an employer from disciplining an employee for violation of a workplace drug policy or for working while under the influence of marijuana. This act does not prevent an employer from refusing to hire, discharging, disciplining, or otherwise taking an adverse employment action against a person with respect to hire, tenure, terms, conditions, or privileges of employment because of that person's violation of a workplace drug policy or because that person was working while under the influence of marijuana.

Termination

- Whether paid for accumulated, unused paid time off
- Notice of Resignation
- Continuation of Insurance/COBRA
- Return Company property

Acknowledgment

- Signature acknowledges receipt
- Acknowledge and agree limitation of actions
- Alternative dispute resolution
- Put in personnel file

Common Handbook Mistakes



Common Handbook Mistakes

Using On-Line Boilerplate Templates

Common disclaimer from online-handbooks:

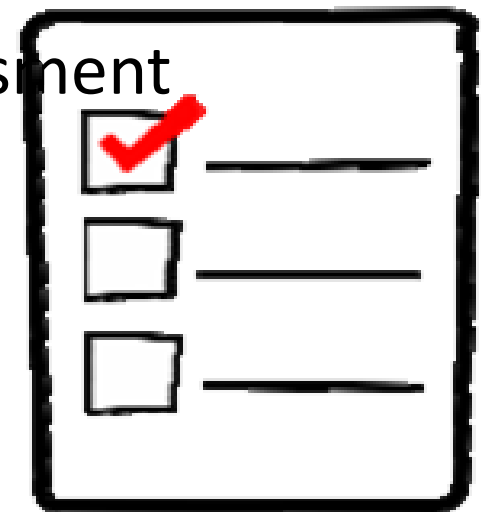
- While the information provided within this handbook is intended to be complete and accurate, it should not be considered legal advice
- Employment laws vary from state to state, and it would be impracticable to provide a detailed employment handbook tailored to each locale
- The authors and publishers cannot be held responsible for any errors or omissions
- This handbook is provided with the understanding that neither the authors nor the publishers are supplying legal or professional advice



Common Handbook Mistakes

Not Having an Effective Anti-Harassment Policy

- Objective/Statement of Policy
- Prohibited Conduct
- Definition(s) of Discrimination/Harassment
- Complaint Process/Procedure
- Confidentiality
- Non-retaliation provision



Common Handbook Mistakes

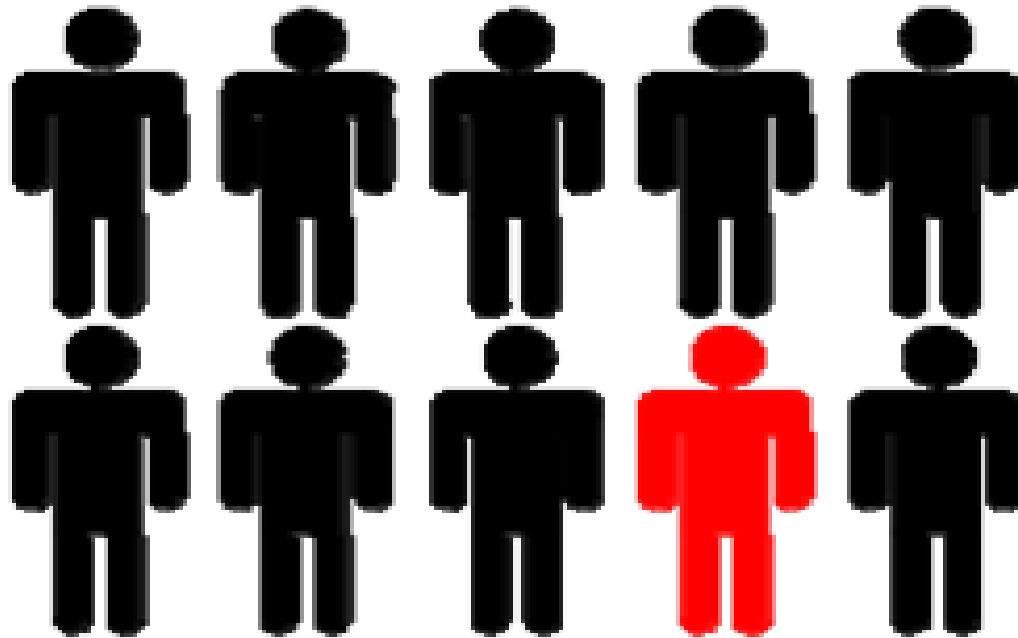
Overly Restrictive/Detailed Disciplinary Policy



Overly detailed vs. not detailed enough

Common Handbook Mistakes

Inconsistent Application



Common Handbook Mistakes

No Overtime/Timekeeping Procedures

- Employee Classifications
- Overtime Approval Process
- Reporting Mechanisms
- Disciplinary Procedure



Common Handbook Mistakes

Overly Vague Leave Policies



Common Handbook Mistakes

Absence of At-Will Disclaimer

Nothing in _____'s policies, actions, or this document shall be construed to alter the "At Will" nature of your employment, and you agree and understand your employment and compensation can be terminated at any time with or without cause and with or without notice at the option of either the Company or myself. I understand and agree that no officer or representative of _____ has the authority to enter into an agreement for employment for any specified period of time, or to make any agreement contrary to the foregoing, except the President of the Company and any such agreement must be made in a signed writing directed to me personally.

Common Handbook Mistakes

Bans on Salary/Pay Discussions



Common Handbook Mistakes

Not tracking employee acknowledgment receipts



Common Handbook Mistakes

Not Reviewing/Revising the Handbook Regularly



Unemployment Compensation

- Under the Michigan Employment Security Act (“MESA”), claimants who test positive for marijuana ordinarily have been disqualified for unemployment benefits.
- But, employees who test positive for medical marijuana have been determined eligible for unemployment benefits.

Pandemic Unemployment

- Provides \$600/wk in additional to State UIA benefits
- Extends benefits from 26 weeks to 39 weeks
- Employer accounts not to be charged.
- Employees who refuse to work solely because of fear of COVID-19 not eligible for benefits.

I was furloughed by my employer, but they have now reopened and asked me to return to my job. Can I remain on unemployment?

No. As a general matter, individuals receiving regular unemployment compensation must act upon any referral to suitable employment and must accept any offer of suitable employment. Barring unusual circumstances, a request that a furloughed employee return to his or her job very likely constitutes an offer of suitable employment that the employee must accept.



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