

A pair of glasses with dark frames and clear lenses is positioned on the left side of the image, resting on a document. The document has the words 'EMPLOYEE HANDBOOK' printed in large, bold, black capital letters. The background is a light blue gradient with abstract geometric shapes in various shades of blue on the right side.

IS YOUR EMPLOYEE HANDBOOK UP TO DATE? ESSENTIAL COMPONENTS AND SAMPLE POLICIES FOR TODAY'S WORKPLACE

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Why Your Organization Needs an Employee Handbook





FIRST LINE OF DEFENSE

- ▶ Federal Notice Requirements
- ▶ State Notice Requirements
- ▶ Integrating New Employees
- ▶ Communicating Expectations
- ▶ Management Obligations
- ▶ Benefits
- ▶ Lawsuits

PURPOSE OF EMPLOYEE HANDBOOK

First Line of Defense

Setting Forth Culture and Values

Introducing New Employees to the
Organization

Communicating Employee Expectations

Consistency in Treatment



Revising the Old or Starting Anew

- ▶ Template Employee Handbook
- ▶ Growth of Organization
- ▶ Multi-Jurisdictional
- ▶ Corporate Structure Changes
- ▶ Telework

MUST HAVE POLICIES



Policies...

- ▶ Telework
- ▶ Drug Free Workplace
- ▶ Anti-Discrimination/Anti-Retaliation
- ▶ Benefits
- ▶ FMLA
- ▶ FLSA Safe Harbor
- ▶ Social Media
- ▶ At-Will Disclaimer
- ▶ EEO Reasonable Accommodation
- ▶ Attendance and Punctuality
- ▶ Overtime
- ▶ COBRA
- ▶ Pregnancy/Lactation Accommodation Policy

Telework Policy

- ▶ Choice of law
- ▶ EE Handbook
- ▶ Integration of Technology
- ▶ Timekeeping/ Work Schedule
- ▶ Overtime/off-clock work
- ▶ Company Equipment
- ▶ Performance Metrics
- ▶ Timeliness of Communication
- ▶ Confidential Information and Trade Secrets



Telework Policy Language

Introduction

Acceptance of this Work From Home Policy does not alter your duties, obligations, responsibilities and/or conditions of employment with **[COMPANY NAME]** unless specifically agreed upon in writing. This Work From Home Policy is available only to those deemed eligible at **[COMPANY NAME]**'s sole discretion. Either the employee or **[COMPANY NAME]** may end the remote work assignment at any time with or without cause, and use of the Work From Home Policy is subject to the following conditions:

Rules and Policies

All of **[COMPANY NAME]**'s rules and policies, including those set forth in **[COMPANY NAME]**'s Employee Handbook, apply while working from a designated workspace. These policies include, but are not limited to, policies regarding attendance, confidentiality, and policies prohibiting harassment. Employees are reminded that this Work From Home Policy is not to be used in place of sick leave, FMLA leave, etc. **[COMPANY NAME]** is not responsible for any expenses related to remote work during this period.

Telework Policy Language

Acknowledgment of Receipt

I acknowledge that I have received a copy of the Work From Home Policy and that I agree to abide by it at all times. I understand that the Work From Home Policy represents current **[COMPANY NAME]** policy, that it does not affect my status as an at-will employee, and that **[COMPANY NAME]** retains the right to change or rescind the Work From Home Policy at any time as the company deems necessary.

Confidentiality and Security:

Employees working remotely are reminded that even if they are working from a designated workspace, they are bound by any confidentiality and/or security agreements they signed in connection with their employment with **[COMPANY NAME]**, and any confidentiality and/or security policies contained in **[COMPANY NAME]**'s Employee Handbook.



Drug Free Workplace

Managing Reality

- ▶ Amending policies and job descriptions to prohibit drug addiction;
- ▶ Amending policies and job descriptions to prohibit impairment at work;
- ▶ Training supervisors to be alert to behaviors associated with marijuana intoxication; and
- ▶ Reviewing interview and onboarding materials for compliance with standards regarding medical inquiries.

EEOC Exemption: COVID Vaccine and ADA



- ▶ The ADA allows an employer to have a [qualification standard](#) that includes “a requirement that an individual shall not pose a direct threat to the health or safety of individuals in the workplace.”
- ▶ The employer must show that an unvaccinated employee would pose a direct threat due to a “significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation.” [29 C.F.R. 1630.2\(r\)](#).

EEOC Exemptions: Vaccine and Religious Discrimination

A religion addresses fundamental and ultimate questions having to do with deep and imponderable matters.

A religion is comprehensive in nature; it consists of a belief-system as opposed to an isolated teaching.

A religion often can be recognized by the presence of certain formal and external signs.

Immunizations and Religion

No Objection

- ▶ Roman Catholicism
- ▶ Eastern Orthodox
- ▶ Oriental Orthodox
- ▶ Amish
- ▶ Anglican
- ▶ Baptist
- ▶ The Church of Jesus Christ of Latter-Day Saints (Mormon)
- ▶ Congregational
- ▶ Episcopalian
- ▶ Jehovah's Witness
- ▶ Lutheran
- ▶ Mennonite
- ▶ Methodist (including African Methodist Episcopal)
- ▶ Quaker
- ▶ Pentecostal
- ▶ Presbyterian
- ▶ Seventh-Day Adventist
- ▶ Unitarian-Universalist

Objection

- ▶ Dutch Reform Congregations
- ▶ Faith healing denominations
- ▶ Faith Tabernacle
- ▶ Church of the First Born
- ▶ Faith Assembly
- ▶ End Time Ministrie
- ▶ Church of Christ, Scientist

The background features abstract, overlapping geometric shapes in various shades of blue, ranging from light sky blue to deep navy blue. These shapes are primarily located on the left and right sides of the frame, creating a modern, dynamic border around the central text.

Anti-Discrimination/ Anti-Retaliation Policy

A large rainbow flag is flying in the foreground, partially obscuring the view of the Supreme Court building in the background. The flag's colors are vibrant, and the building's classical architecture is visible through the flag's folds.

SCOTUS Rules Gay and Transgender Employees May Sue for Discrimination

- ▶ *Bostock v. Clayton County*
- ▶ “From the ordinary public meaning of the statute’s language at the time of the law’s adoption, a straightforward rule emerges: . . . If the employer intentionally relies in part on an individual employee’s sex when deciding to discharge the employee—put differently, if changing the employee’s sex would have yielded a different choice by the employer—a statutory violation has occurred.”



Lactation/Breastfeeding Breaks Policy

- ▶ Up to 1 year after a child's birth
- ▶ Reasonable break time to express breast milk
- ▶ Designated room other than bathroom
- ▶ Refrigeration
- ▶ Use of Any Paid leave or Break time

Pregnancy Accommodation Law

R.S. 23:341 (08/01/21)

- ▶ Unlawful for a covered employer to:
 1. Fail or refuse to make reasonable accommodations for an applicant or employee with covered limitations *unless* the employer can show that the accommodation would impose an undue hardship on the business;
 2. Deny employment opportunities to a covered applicant or existing employee based on the need for reasonable accommodations;
 3. Require a covered applicant or existing employee to accept a reasonable accommodation they do not want or need;
 4. Require a covered employee to take leave under any leave law or policy if leave can be avoided through the provision of a reasonable accommodation; and
 5. Take adverse action against a covered employee for requesting or using a reasonable accommodation.

Example Accommodations:

- Making existing facilities readily accessible to and usable by applicants or employees with covered limitations;
- Providing scheduled and more frequent or longer compensated break periods;
- Providing more frequent bathroom breaks;
- Providing a private place, other than a bathroom stall, for the purpose of pumping breast milk;
- Modifying the food or drink policy;
- Providing seating or allowing applicants or employees with covered limitations to sit more frequently if the job requires them to stand;
- Providing assistance with manual labor and imposing limits on lifting;
- Temporarily transferring a covered employee to a less strenuous or hazardous vacant position for which they are qualified;
- Providing job restructuring or light duty work if available;
- Acquiring or modifying equipment or devices necessary to perform essential job functions; and
- Modifying work schedules.

BOILERPLATE LANGUAGE THAT BURNS





One Size Doesn't Fit All

- ▶ Handbooks must be tailored to your workplace
- ▶ Policies:
 - ▶ May contain irrelevant and outdated policies
 - ▶ May omit important material
 - ▶ May make promises you cannot meet

Untailored Policies

- ▶ Disclaimers
- ▶ Probationary Period
- ▶ Break Period
- ▶ Social Media Policy (NLRB)
- ▶ Anti-Harassment Reporting Process
- ▶ Arbitration
- ▶ Non-Compete
- ▶ Progressive Discipline
- ▶ Vacation Policy
- ▶ Policies that Do Not Apply



National Labor Relations Board

- ▶ A **social media policy** that provided no guidance on what constituted the prohibited “inappropriate postings” on social media sites. The NLRB felt that this allowed employees to reasonably interpret the rule to prohibit protected concerted activities.
- ▶ A **work rule** prohibiting “inappropriate conversation,” whether in person or online, was unlawful when it provided no guidance on what constituted the prohibited “inappropriate conversation.”
- ▶ A company policy that prohibited employees from **disclosing or communicating information of a confidential, sensitive, or non-public nature** using company resources to those outside the company was unlawful when it failed to give examples of such violations. -
- ▶ Two policies prohibiting employees from making **disparaging comments about the company or from engaging in unprofessional conduct online** were found to be unlawful when the NLRB felt such policies “would reasonably tend to chill employees in the exercise of their Section 7 rights.”

- ▶ The NLRB found lawful a policy that prohibited employees from engaging in “inappropriate communications,” disclosing confidential or proprietary information, using the employer’s name to denigrate or disparage causes or people, and posting photos of coworkers would not be reasonably understood to restrict Section 7 activity. *Medic Ambulance Service, Inc.* 370 NLRB No. 65

Policy

Anti-Harassment Policy

- ▶ Individuals who believe they have been the victims of conduct prohibited by this policy or believe they have witnessed such conduct should discuss their concerns with their immediate supervisor, human resources, any member of the personnel practices committee or any ombudsman.
- ▶ [Company Name] encourages the prompt reporting of complaints or concerns so that rapid and constructive action can be taken before relationships become irreparably strained. Therefore, while no fixed reporting period has been established, early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of harassment.
- ▶ Any reported allegations of harassment, discrimination or retaliation will be investigated promptly. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge.
- ▶ [Company Name] will maintain confidentiality throughout the investigatory process to the extent consistent with adequate investigation and appropriate corrective action.



Looking
Ahead



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