

Virginia

Regulatory Hot Tip 2016 – 1

Professional Insurance Agents Association of Virginia and DC, Inc.

Effectively Using an Employee Handbook

When is the last time you modified or updated your employee handbook? When you updated, did ALL employees sign off on receiving his or her revised handbook? These are just two important questions to consider when it comes to effectively using your employee handbook and the protections it can provide.

Employee handbooks are crucial to communicating policies and standards at the workplace. Employee handbooks establish policies that demonstrate compliance with many regulatory agencies such as EEO (Harassment and Anti-Discrimination), ADA (Americans with Disabilities Act), FMLA (Family Medical Leave Act), FLSA (Fair Labor Standards Act), and, when appropriate, NLRB (National Labor Relations Board). It is extremely important to ensure your policies are up to date to

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provide your company with potential legal defenses and protection should a situation arise.

There are several important disclaimers that are necessary to make your employee handbook effective. All disclaimers should be conspicuously placed in large, bold headings. Your handbook should emphasize that employment is At-Will (if that is your intent, of course). Further, the handbook should include a statement that the employment At-Will status may not be changed by any other employment documents, statements or procedures of the employer. Additionally, the employee handbook should include a disclaimer stating an employee handbook does NOT create a contract. Further stating, the employee handbook exists only for information purposes and the handbook may be changed at any time at the exclusive discretion of the employer. Modifications may become necessary from time to time and need to be carried out properly to avoid losing protection and legal defenses available to the employer.

So, how and when to modify? When making any modification to an employee handbook, the new and updated handbook MUST be given to all employees (current and new). The employees need to sign a document that ensures they have been given a copy of the new handbook and acknowledgement of any and all disclaimers. If this written acknowledgment has not been provided to all employees, the employer is at-risk for losing protections provided in disclaimers and may have to abide by outdated policies from previous handbooks should a situation arise. Therefore, be sure to get written acknowledgement of new handbooks from all employees and keep them for your protection!

When to modify? Regulatory agencies and NLRB guidelines related to employment issues are always changing and your handbook needs to stay up to date with current law and procedures. Therefore, it is important to have an attorney and a Human Resources specialist that can notify you of important updates that may require a modification to your

employee handbook. Non-regulatory modifications may be necessary, as well. For example, your company may decide to alter benefits such as changing paid leave policies. This would need to be updated in the benefits section of your handbook and would need to be provided to all employees for effective implementation of the new policy. This is only one scenario of many that may call for modification and updates to your employee handbook. Be sure to stay on top of changing legal regulations and company policies that require updates to your handbook. It is essential to be proactive with your employee handbook to keep the protections and legal defenses that it can provide your company!

*****Employee Handbook Fun Fact: Employee handbooks should not be provided to independent contractors (this could essentially cause them be considered an employee instead)!*****