

Legal Connections



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"Documenting your employment policies can protect your business and provide guidelines to ensure your employees are treated equitably."

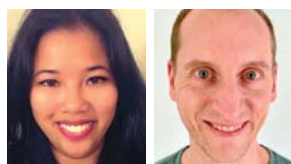
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THE IMPORTANCE OF A QUALITY EMPLOYEE HANDBOOK

As plaintiffs' employment counsel, I have reviewed myriad employee handbooks. Most employers whom I've encountered have a handbook. Some are quite good, some merely adequate and some leave much to be desired. Although employee handbooks are recommended, I submit that a poorly drafted handbook is worse than no handbook at all.

When considering creating a handbook, understand that there is no universal template. One size most definitely does not fit all. Some large employers have handbooks extending hundreds of pages in three-ring binders. Small and medium-sized employers certainly don't require such detailed policies. Thus, my best advice to any employer looking to implement a handbook is to tailor it to your organization's specific needs. For instance, does a small, white-collar organization really require the same multi-page, detailed drug testing policy that a manufacturing plant may include?



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Although organizations have a lot of flexibility in deciding what material to include or exclude from employee handbooks, there are certain topics that must be included, such as:

Sexual Harassment and Anti-Discrimination Policies: It is incumbent to include both (1) A well-drafted policy outlining the organization's (presumably) zero tolerance respecting sexual harassment and other forms of unlawful discrimination, and (2) A clear mechanism for employees to report any perceived harassment (e.g. to HR or through an anonymous hotline).

Leave Policies: While some employee leave policies are discretionary, others, such as the Family Medical Leave Act (applicable to employers with 50 or more employees), are mandatory. Hence, it is a good idea to have a well-drafted leave policy outlining all permissible leave (sick, vacation, PTO) and any mandated leave (FMLA).

Disclaimer Language: While there is no law requiring this, it would be extremely foolish not to include a clear, prominent disclaimer that the policies in your handbook are merely guidelines and subject to change with or without notice. The disclaimer should also contain a statement that the handbook is not a contract and employment is at-will.

Once you have created and disseminated your handbook, make sure to adhere to its policies. It is amazing how often I encounter a detailed progressive disciplinary procedure that the employer failed to follow – either because it bypassed certain steps or because it afforded select employees additional

chances. While disclaimers allowing organizations to bypass one or more steps in discipline enforcement may be sufficient in protecting the employer from wrongful discharge claims, failure to maintain uniform enforcement could create internal strife amongst employees. It also could lead to increased unemployment insurance premiums if the separated employee successfully demonstrates that the company ignored its own policies.

Finally, regularly review your handbook to ensure that it complies with all current employment laws. I recently reviewed an employee handbook that was so outdated that it described the designated smoking areas within its plant. The Ohio Statewide Smoking Ban went into effect in 2006, so well over a decade had passed since employment counsel reviewed the organization's handbook. Avoid making this mistake. Be sure to have an employment attorney review your handbook at least annually. ■

It's almost time for the 2019 Bankruptcy Law Institute: Back to the Future Series on May 2-3! Register for one or both days now at www.cbalaw.org

THE IMPORTANCE OF MAKING THE WORKPLACE MORE INCLUSIVE

Members of the LGBTQ+ community face discrimination in every facet of their lives, not the least of which is at their jobs.

According to a recent Human Rights Campaign report, 50 percent of LGBTQ+ workers remain closeted at work for fear of being discriminated against, missing out on promotions or being fired. One in five LGBTQ+ workers report having heard crude sexual orientation-related jokes at the workplace, or being told to dress differently to accommodate others' perception of appropriate gender presentation.



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But you won't hear many of these workers talking about it to HR or supervisors. The biggest reason why? They don't think anything would improve.

Imagine feeling uncomfortable or even frightened every day at work, but being resigned to discrimination. How do we change that?

Let's start by extending statewide legal protections to LGBTQ+ Ohioans. Ohio excludes the LGBTQ+ community from its civil rights law prohibiting discrimination in employment, housing and public accommodations. The Ohio Fairness Act, a bipartisan bill, would extend these legal protections to all members of the LGBTQ+ community. Passing this bill would be

tremendous progress toward creating a more equitable Ohio.

Public policy isn't the only solution. Employers should also bridge the equality gap. Here are some concrete ways to do so:

1. Create a company-wide culture of inclusiveness. This takes more than just a short presentation during new-hire orientation about diversity. A clear message from the top that discrimination is not tolerated at any level is crucial. Adopting a comprehensive nondiscrimination policy, implementing regular diversity trainings for every employee and standardizing benefit packages with inclusive policies are great first steps.

2. Provide access to employee resource groups. Being a member of a marginalized community can be isolating, particularly in the workplace. LGBTQ+-specific resource groups provide a source of community and safe spaces for employees.

3. Support LGBTQ issues in the community. Participating in annual Pride events is great, but it's also important to understand the unique issues facing the LGBTQ+ community and to really show up when it counts. Taking a stand on local or state laws affecting the LGBTQ+ community, for example, and being responsive to employees' needs and expectations are imperative. ■

The views and opinions expressed in this article are those of the author.

2019 TransOhio
Transgender and Ally
Legal Symposium

📅 April 26, 2019 📍 OSU Student Union (3rd floor)

Legal symposium presented in collaboration with TransOhio

Breakfast and lunch will be provided. Morning topics include: Transgender 101, LGBTQ Prisoners, the Ethics of Gender Bias, and Navigating Name and Gender Marker Changes in Ohio. Afternoon topics: Transgender Military Ban, Birth Certificate Litigation, Legislative Priorities at the Ohio Statehouse, and the Power of Local-Level Advocacy.

Registration:

Register for this class online at www.cbalaw.org or call (614) 221-4112.