
Volunteer Lawyers Project
Nebraska State Bar Association

Basics About Employee Handbooks in Nebraska



Having an up-to-date and easily understandable employee handbook of policies and procedures can help your company stay compliant with local, state, and federal employment laws. Handbooks also serve as a resource to assist employees in understanding how everyday procedural matters work with their employer, and they can provide employees, supervisors, and human resources with a roadmap through difficult situations. For example, while not every employee will experience discrimination, some might believe they have grounds to make such a complaint. A policy that defines discrimination, makes clear that discrimination is not tolerated, and explains that the employee should report discrimination, will help both employees and employers more effectively address the problem. Having proper procedures in place may also help avoid the escalation of a claim into something more costly. Finally, well written handbooks demonstrate and emphasize company culture and values.

When, and How Often, to Update Handbooks

Ideally, employers will review and update their handbooks every year. January presents a good opportunity to review how applicable laws may have changed over the last year and to ensure that company policies and practices have adjusted with those changes. When policies are updated, companies must notify each employee and manager of the changes and provide them with an updated written version. Companies should also obtain written confirmation from their employees that they have received and understood the updated policies.

Formatting, Organizing, and Distributing Handbooks

The first step to formatting a handbook is to include a clear and short table of contents. You want employees to be able to go directly to the relevant policies when looking for something specific. If you provide your employees with electronic versions of the handbook, link the table of contents with the provisions themselves.

Handbooks should be distributed at the time of hiring, and annual or periodic updates should be distributed to all managers and employees as soon as is practicable. Although the general format of the handbook is driven largely by preference, it makes sense to group similar policies and provisions together.

Policies to Include in a Handbook

No two employee handbooks are the same, and with few exceptions, the law does not compel employers to have certain policies. The following is a list of policies employers should consider integrating into their handbooks.

1. *At-will employment*

An employee handbook should make clear the parties (the employer

and the employee) are involved in an at-will employment relationship, meaning either party can terminate the employment at any time for any non-discriminatory reason. The handbook should also make clear that it should not be construed as creating an employment contract in any way different from this at-will relationship. Some companies, as well as most government entities, often have unions subject to Collective Bargaining Agreements. Employees should be aware if they are protected under a union contract and be familiar with those rights. These agreements are controlling over the handbook procedures.

2. *Family Medical Leave Act ("FMLA")*

Employers with 50 or more employees must include policies explaining employee FMLA rights.

3. *Consolidated Omnibus Budget Reconciliation Act ("COBRA")*

Employers with 20 or more employees must include policies explaining employee COBRA rights.

4. *Anti-Discrimination/Anti-Harassment Policies*

Employers should use their handbooks to prohibit discrimination and harassment in the workplace. These policies should:

- define discrimination and harassment;
- make clear that discrimination and harassment will not be tolerated;
- make clear that the policy applies to all employees, including managers/supervisors;
- make clear that managers and supervisors who are aware of harassment but do nothing about it are subject to discipline;
- explain that complaints will be reported and thoroughly investigated;
- provide employees with clear direction regarding how to report violations and provide them with an alternative method of reporting, if they do not feel comfortable bringing the complaint to their direct supervisors; and
- encourage employees to identify instances of discrimination or harassment, even if they are not the employee being discriminated against or harassed.

5. *Anti-Retaliation Policies*

Nebraska law, Federal law, and possibly the law of your local municipality, make retaliation illegal. In general, retaliation takes place when an employer takes an adverse action against an employee who: (1) opposed any employer practice that violates

anti-discrimination or anti-harassment laws; (2) complained about suffering discrimination or harassment themselves or on behalf of someone else; (3) participated in any manner in an investigation, related to a claim for discrimination or harassment; or (4) opposed any practice or refused to carry out any unlawful action. Your handbook should include a non-retaliation statement, explaining that no employee will face any adverse employment actions in response to filing, or participating in the investigation of, a discrimination claim or harassment claim, regardless of the outcome of the investigation.

6. *Employee Disciplinary Procedures*

Consider including something in your handbook explaining how your company handles employee disciplinary matters. If your company uses a progressive disciplinary procedure, explain that process. Also, make sure your company follows that progressive disciplinary policy consistently for all employees. If your employees are subject to a Collective Bargaining Agreement, direct them to that agreement for discipline procedures, as it controls over the handbook.

7. *Social Media and Computer Use*

Employers can use social media and computer use policies to lay out their expectations for what internet content their employees can and cannot access while on the job. A good computer use policy should make clear that an employee's internet and company email usage may be monitored, that they should have no expectation that their communications on company computers are private, and they may face disciplinary measures based upon their computer usage. It should also make clear that anti-harassment, bullying, and anti-discrimination policies apply with equal force on social media. Just because you are on Facebook does not mean you can harass a co-worker.

8. *Leave Policies*

Use the handbook as an opportunity to describe your company's vacation and sick time policies. Explain how off-days are accrued and the procedures that need to be followed to use those paid days off. If you provide holiday pay, that should also be discussed in this section.

9. *Benefit Policies*

If your company offers benefits like health insurance coverage, retirement savings, access to EAP programs, etc., all of that should be explained in your handbook. The policy should also clearly lay out the procedures for taking advantage of these benefits.

10. *Payroll*

Consider using your handbook to explain how payroll works with your company. Explain that non-exempt employees are eligible for overtime pay. Also explain the schedule employees will be paid on and who an employee should talk to if something is wrong with their paycheck.

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