

## 13 Mistakes That Can Lead To “Employee Handbook Betrayal”

Handbooks are great communication tools, help ensure fair treatment of employees, and can reduce litigation risk. They can also hang you if done poorly. But don't think that you can avoid the problem by not having a handbook. In those instances your practices become your policies and you really don't want to go there. The best advice? Take the time to do it right or risk being “betrayed” by your handbook.

1. **Thinking One Size Fits All.** Simply adopting a “one size fits all” handbook and failing to customize it to reflect your actual company policies and your specific state law works about as well as one size fits all shoes...except, you don't get sued if your shoes are too tight.
2. **Dawdling.** Don't fail to update the handbook to incorporate ongoing legal as well as company changes and trends in management practices. The law can change rapidly. You snooze, you can lose...and in a big way.
3. **Too Much Yackety, Yack.** Providing too many details can confuse employees and provide lots of fodder for plaintiffs' attorneys. Keep it simple. Use your HR Manual to provide more detailed procedures for your managers.
4. **Skippping Yoga And Not Staying Flexible.** Avoid using words like “just cause,” “probationary or permanent employee,” “long term or secure employment,” that someone will “always be treated a certain way” and other such phrases that can limit your actions and create unintended promises and contracts. Avoid “shall” or “will” and use “may” as is appropriate. As most private sector employers are employers at-will, it's important to protect those rights, as your state law allows. Public sector employers play under different rules.
5. **Over Promising And Under Delivering.** Don't make statements and promises you don't intend to keep or include policies you don't follow. If managers don't enforce it, don't include it.
6. **Being Too Microscopic.** Providing too many specifics in corrective action, termination and other policies may then require you to closely follow all outlined action steps in every instance. Allow deviation from suggested steps as circumstances require. Make clear that you can act as is necessary.
7. **Not Providing Enough Wiggle Room.** Use words like “suggested steps,” “includes but is not limited to,” “steps may not be followed in every instance,” “should” vs. “must” to provide the flexibility you need to respond to different situations. Poorly drafted policies can morph into employment contracts (not a good thing).
8. **Don't Forget To Tell 'Em About Your Employment At-Will Status.** Providing very visible at-will statements throughout your handbook and within the employee acknowledgement (which should be signed) are critical for you to be able to rely on your at-will status and terminate as necessary. You'll also want to make sure that you include a conspicuous disclaimer stating that the handbook isn't a contract, there are no employment guarantees, and that any policy (except employment at-will) can be changed or eliminated.

9. **Maybe I Will Or Maybe I Won't—Being Inconsistent.** If the language in your handbook conflicts with other documents or your actions, you have a problem. Inconsistent actions can create nasty discrimination claims.
10. **They're On Their Own—Lack Of Training.** Failing to train managers and employees regarding handbook policies wastes the effort you put into developing those policies in the first place. It also can start you down a road that you don't want to travel.
11. **Forgetting That You Really Do Have Employees In North Dakota And Rhode Island.** If you are a multi-state employer and you have responsibility for the handbooks for employees in all locations, you have my sympathy. State law varies considerably. Remember, employees in each of those states are subject to the laws of those states. Therefore, you've either got to write handbooks specific to each state or create one master that would comply with all the states in which you are located. Whichever poison you choose would be dependent upon the number and in which states you are located. Good luck with that one.
12. **Something Old, Something New.** By now I think that most everybody knows how important it is to include policies that address sexual and other forms of harassment, Equal Employment Opportunity (EEO) issues, Family and Medical Leave Act (FMLA) leave, confidentiality, etc. But don't forget to include policies that may now be necessary because of the electronic revolution in the workplace, involving the internet, email, voicemail, IM, iPods, cell phones, monitoring, blogs and computer usage. That list seems to be growing and growing.
13. **Avoiding The Lawyers.** Nobody likes to pay the lawyers. But ensuring that your handbook is well written and compliant may be an instance where a few dollars spent now will save you many down the road. You can save time and money by creating a first draft of your handbook yourself. Good template handbooks are available that can be customized and then reviewed by your counsel, if desired.

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