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Types of Employment Manuals

Employment manuals come in different forms, shapes, and sizes. They cover different needs and are not always written for the entire work force, but a particular plant or segment of the work force it manages. An employer should be aware of the varied formats that can be drafted as well as their legal significance and impact of each.

Different types of manuals will obviously not fit every employer's needs and requirements. The following hierarchy and relationship among the many different manuals is summarized in pictorial form.

Plant or Facility Manual

Employee Handbook Benefits Manual

Personnel Procedure Manual

Management Policy Manual

As depicted in the preceding triangle, each type of manual builds on the next. Personnel policies and practices must emanate from "above". It is the policies that management feels are important that establish the basic parameters for the company. To use a legal analogy, the policies are the constitution; the procedures that will follow are regulations. The management policy manual is generally designed for dissemination to only department heads and officials of the company.

Management Policy Manual

The management policy manual generally deals with the basic rules and policies of the company, including:

- Accounting Policy and Financial Reporting
- Benefits Practices

- Business Ethics
- Capital Appropriations and Lease Commitments
- Compliance with Anti-Trust Laws
- Conflict of Interest
- Contracts and Contractual Relationships
- Corporate Development
- Corporate Policies
- Credit and Collections
- Employee Health and Safety
- Energy Conservation and Use
- Environmental Protection
- Equality of Opportunity in Employment
- Financing
- General Communications, Internal and External
- Government Relations
- Information Services
- Internal Auditing
- Investor Relations
- Legal Counsel
- Management Guides and Unit Procedures
- New Products Approval
- Payroll Practices
- Product Quality and Quality Assurance
- Protection of Proprietary Technology Trademarks
- Real Estate
- Risk Management
- Security
- Sensitive Information
- Taxation
- Unsolicited Ideas and Suggestions

Policy manuals are generally prepared by very large corporations. In addition, it is common to establish a procedures manual. Such a manual generally is a compilation of different procedures that “implement” and interpret the general policies of the company.

The procedure or policy manual can be an effective way to communicate the company’s procedures with less legal risk of it being enforced to the same extent as an employee handbook. For example, in *Anderson v. Hewlett Packard Corp.*, the plaintiff, a personnel supervisor, was terminated for sexually harassing female employees. In his employment interview, the interviewer told plaintiff about the company’s discipline and termination policy. He was also

told about the “deadly sins” commission of one of which constituted grounds for immediate dismissal. The supervisor’s manual combines policies concerning involuntary termination. That section gave managers and supervisors the discretion to summarily terminate an employee for gross misconduct. Harassment was included in the category of gross misconduct.

In view of the fact that the manual “explicitly state[d] that ‘[s]uch conduct [that] has the purpose or effect of interfering with an individual’s work performance or creating an unfriendly or offensive work environment’ is a violation of H-P policy,” the court held that the plaintiff’s actions violated H-P’s guidelines and that he was unlawfully terminated.

In *Stevenson v. Potlatch Corp.*, the issue was whether a probation memo constituted an implied promise to terminate only for just cause. The plaintiff, a plant manager for the defendant, was given a memo dated September 27, 1984, placing him on probation until February 1985. He was placed on probation for failing to correct a substance abuse problem that was prevalent at the plant. Among his causes of actions, the plaintiff alleges that he was not an employee at will because of an implied contractual right found in the Potlatch Salary Administration Manual.

The court rules in favor of the defendant and held that “the Salary Administration Manual was never intended by the defendant to be used as an employment manual. It was intended to be nothing more than a guide to be used by supervisors and managers to implement salary policy. Moreover, plaintiff never relied upon the manual as a source of continued employment.”

The Employment Handbook

The employee handbook is probably the most common form of employer-employee communication vehicle. This handbook is generally given to all employees upon hire or subsequently. However, the employee handbook can create the greatest risks to the company.

The handbook generally covers all employment related issues, such as:

- Alcohol and Drug Policy
- Attendance
- Breaks/Rest Periods
- Communications
- Company History or Statement of Company Business
- Company Philosophy
- Company Property and Inspections
- Company Work Rules
- Confidentiality
- Confidentiality of Work-Related Information
- Customer Relations

- Discipline Policy
- Dress Code
- Earned Compensable Time
- EEO/Affirmative Action Statement
- Employee Assistance Program
- Employee Relations Policy
- Employment At-Will Disclaimer
- Employment of Relatives
- Get Acquainted Period (Probation)
- Holiday Pay
- Holidays
- Inclement Weather
- Insurance Benefits
- Job Classifications/Grading
- Leaves of Absences
 - Medical Leave (Including Maternity)
 - Jury Duty
 - Military Leave/Reserve Duty
 - Bereavement Leave
- Meal Money
- Merit Increases
- On-The-Job Training
- Outside Employment
- Overtime
- Paid Rest Period
- Pay Schedule
- Performance Appraisal
- Personal Appearance
- Personal Use of Company Property
- Personnel Records
- Physical Examination
- Premium Pay
- Promotions
- Retirement Program
- Safety Rules
- Sexual Harassment Policy Statement
- Shift Differentials
- Short-Term Paid Sick Leave
- Smoking Policy

- Solicitation/Distribution of Literature on Working Time/On Break Time
- Tardiness
- Telephone Use
- Time Cards/Time Sheets
- Transfers
- Uniforms and Protective Devices
- Vacations
- Workers' Compensation Act and Insurance
- Working Hours
- Working Schedule

In specific areas, such documents normally include:

Fringe Benefits

- Health Insurance Contributory/Non-Contributory
- Life Insurance
- Short-Term Disability
- Long-Term Disability
- Pension Plan
- Dental Plan
- Ophthalmological Plan
- Workers' Compensation Insurance
- Others

Part-Time Employment

- Compensation
- Overtime
- Eligibility for Insurance Coverage
- Pension Plan
- Vacations
- Holidays
- Leave of Absence

Discipline/Discharge

- Termination for Misconduct Causes
- Verbal Warnings
- Written Warnings

Plant or Facility Manual

The individual plant or facility manual includes numerous topics dealing with the particular facility. Companies with numerous facilities might need different manuals for each facility. Topics covered can include location of certain offices, availability of lunch and meal facilities, local rules and procedures, and local statutes. The following are some sample areas generally covered:

- Access Between Floors
- Access to Company Stores
- Cafeterias, Company Stores
- Car and Van Pooling
- Cashier Services
- Company Identification Cards
- Company Location and Statistics
- Courier Service
- Credit Union
- Emergency Telephone Numbers
- Employee Communications
- Facilities for the Disabled
- Fire Drills
- Local Job Bidding
- Meal Allowance and Communication Expense
- Medical Department/Health Service
- Personal Appearance
- Public Telephones
- Recreational Activities
- Security and Fire Safety
- Solicitation and Distribution
- Speaker System
- Telephone Use
- Training and Development Programs
- Transfer Policy
- Transportation Information
- Visitors

The Legal Significance of Employment-Related Handbooks

Employee handbooks have continued to be significant weapon for plaintiff's attorneys. Since the first edition of this book, additional courts have determined the legal impact of manuals

on employee rights. For example, in *Aiello v. United Air Lines, Inc.*, and *Zaccardi v. Zale Corp.*, similar results were obtained in both cases. Both courts indicated that the personnel manual created an implied contract. In *Aiello*, the employee operated under a manual that stated that the air line needed good cause for discharge. The courts found the manual created binding disciplinary standards and procedures that apparently were not overcome by an effective disclaimer and reaffirmation of at-will employment. In *Zaccardi*, the employee prevailed upon the issue of whether the manual created an implied contract to defeat the motion for summary judgment.

Pointers When Drafting a Personnel Handbook

Every employer will have different areas to stress in their employee handbook. However, there are some basic provisions that should be emphasized and included in most employee handbooks.

1. It is important that the employer provide a statement dealing with discrimination regarding employment. Discrimination provisions should be meet with the requirements of both the federal law dealing with race, sex, age, handicap, etc., as well as meet the requirements at the individual state level that apply to the company. Some states have laws that prohibit discrimination beyond the basic requirements of the federal law, such as marital status, and these areas should be covered in a discrimination clause.
2. The employer should also include in the personnel handbook a statement on sexual harassment. These types of cases are difficult, and a harassment policy should be clearly stated. The policy should also include a complaint procedure, whereby the individual has the right to complain about the harassment to their supervisor or personnel department.
3. The manual should also contain a grievance procedure. Grievance or complaint procedures may be as vague as an “open door” policy or may be detailed procedural statements giving an employee the right to escalate their grievance to different levels of the company. This will be discussed at greater length in the chapter dealing with alternative dispute resolution.
4. The manual should contain an acknowledgment that the employee received and read the manual and understands its contents. This will provide the employer with evidence that the employee had notice of a particular policy and was aware of the contents of the personnel handbook. Suggested employee acknowledgments are discussed previously in this chapter.

5. When drafting the manual, the company should use clear language that is easy to understand. Avoid words or phrases that would imply that there is a just cause standard for termination, avoid words such as “promise of salary increases on an annual basis,” etc. Wherever needed, terms or phrases should be defined so that there is little question of the meaning and intent of such statements.
6. The manual should always include inappropriate disclaimer and amendment language, as discussed herein.

A sample manual is included in the appendix. However, there is no one final form that is applicable to all companies and for all situations and the specific state law should always be checked before disseminating the manual. Counsel should also review it. However, at a minimum, the manual or handbook should communicate to employees the company’s specific policies and philosophies.

After the manual is completed and disseminated to employees, the employer should discuss and review its impact with affected employees and monitor the manual’s ability to cover situations. Generally, an introductory meeting with employees would be helpful. It is recommended that a manual be put together in a loose leaf form so that pages can be added and subtracted without reprinting the entire book. All pages or sections of the manual should be dated. The manual should also be reviewed periodically, at least every two years, or whenever necessary to make certain that the provisions are up-to-date regarding company policies and the ever-changing law of employment.

Keeping these suggestions in mind, employment manuals of all types should contribute to good employee relations and an efficient operation.