Lend a Helping Handbook: Employment Policies Worthy of Your Mission

By

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On the first day at a new job, most of us probably arrive wondering things like, “What will it be like to work here?” “What will my role entail?” and “How will I learn everything I need to know in order to do my job?” Whether you are a new hire or a longtime employee at your nonprofit, it always helps to have a roadmap to guide your day-to-day professional journey. Any organization with paid staff should have a narrative document or handbook that describes key employment policies. This personnel manual or employee handbook will offer support to your employees while helping to show them the ropes at your organization. Employee handbooks are an effective risk management tool used to mitigate myriad risks related to managing paid staff—but handbooks can also invite risk if they are not drafted, reviewed, shared, and enforced appropriately.

Employee handbooks exist on a wide spectrum—ranging from those that are actually read, respected, and applied, to those that are downright dangerous and expose your nonprofit to legal and employment practices risks. Creating effective employee handbooks and organizational policies are a good risk management practice; they increase the likelihood of a shared and consistent view about the organization’s values and key policies. They also provide a helpful roadmap for supervisors and managers charged with enforcing policies.

When Handbooks Cause Grief Instead of Good

A nonprofit employee handbook is more likely to cause grief than good when it:

- infringes employees’ right to discuss the terms and conditions of employment or engage in other ‘protected concerted activities’ for their mutual aid or protection, provided to all U.S. workers in Section 7 of the National Labor Relations Act (see: www.nlrb.gov/rights-we-protect/whats-law/employers/interfering-employee-rights-section-7-8a1).
- is hopelessly out of date. When early pages in your employee handbook contain clearly outdated references, the reader may stop reading, or worse, regard the entire handbook as useless, inapplicable drivel.
- is verbose or needlessly complicated, making it too cumbersome for employees to read or understand (much less follow!).
- contains policies that are rarely, if ever followed. For example, if dress code violations haven’t occurred in years and your nonprofit permits or encourages casual dress, it’s time to strip the dress code do’s and don’ts from your handbook.
- flip flops between gentle language about teamwork and overly stern warnings such as: This handbook may be changed or interpreted by management at any time and for any reason, and you may or may not be informed about the change by management.’

- features language that infers a contractual—versus employment at will—relationship with staff. Too many handbooks make promises that could undermine the organization's employment at will policy.
- it combines policies and procedures meant for specific stakeholder groups that deserve their own distinct handbooks—such as employees and volunteers—and thereby blurs the legal boundary between employee and volunteer classification.
- is distributed without any coinciding training, coaching, or team meetings, and therefore fails to offer employees the chance to learn about new/updated policies, to refresh their understanding of well-established policies, and to ask questions about any policies they do not understand.

Problem…Solved!

Most employee handbooks contain a routine "acknowledgement" page at the very end, asking each new employee to acknowledge their receipt and review of the nonprofit's HR rules. Yet from time to time, a new hire may refuse to sign the acknowledgement. What's an HR manager or nonprofit CEO to do? Here are three options.

1. **Good**: Ask the employee to confirm in writing their refusal to sign on the acknowledgement page, such as: "I have read and understand the contents of this Handbook but I refuse to abide by all of the policies contained herein." After refusal is documented, consider discipline or termination as appropriate for the employee's insubordination. Make certain that you are consistent when you make discipline decisions: if your top development team member also refused to sign but her actions were ignored, you should not fire another employee for the same refusal.
2. **Better**: Ask the employee to explain his or her reasons for refusing to sign. Focus on the "why" behind the refusal. It's possible the employee simply needs a clearer explanation of one or more policies. And if one employee feels this way, others may too.
3. **Best**: Give the employee handbook to new hires before their first day, and make acknowledgment of your workplace policies a condition of employment.

Designing a Handbook Worthy of Your Mission

So what is a handbook truly meant to achieve, and how can nonprofit leaders lend a helping hand(book) that protects their organizations from the legal risks and cultural challenges described above? To begin, design your handbook with the following qualities in mind:

- **Clarity**: Your handbook should clarify expectations that apply to all paid staff, as well as define consequences for inappropriate behavior. A handbook must also use clear, simple, concise language that caters to varying reading levels.
- **Relevance**: It is essential that all the content in your handbook be pragmatic and truly applicable in the real world. You wouldn't read a handbook if you thought it was impractical, idiotic, or irrelevant—and neither will your employees. Handbook content should have meaning; it should only reference policies that you sincerely expect your employees to follow, and that are actually enforceable. Simply put, if it is irrelevant to your workplace culture and expectations, then take it out of your handbook!
- **Fairness**: Employee handbooks should be designed fairly with a specific audience in mind: your paid staff. Your employee handbook should not reference policies or expectations that apply to volunteers or any other stakeholder groups. This can be confusing, seem unfair, or even create the perception that you are misclassifying employees and volunteers. Consistent enforcement can help protect your organization against legal claims and help bridge the gap between new and longtime staff members. Sometimes these staff groups may skirt around policies that they have grown comfortable with, or adhere more strictly to specific policies that they find valuable. By consistently enforcing your handbook and expectations, you will place all your staff members on an even playing field.
- **Goodwill**: Perhaps the most crucial element of any employee handbook is the quality that convinces employees to read and follow it. There is no sure answer as to what quality this is, but I would guess that goodwill has something to do with it. The handbook is an essential resource for employees—one that demonstrates that the employer is approaching employment issues in a thoughtful way. Take the time to create a handbook that is realistic, helpful, and that makes employees feel more confident—more confident in their own abilities, and more confident that you have sincere goodwill toward them.

Aside from embedding these qualities and values into your employee handbook, try the following tips to keep your handbook fresh, helpful, and fun to read.

- Distinguish between relevant and extraneous content for your handbook. Keep essential personnel policies in your handbook, but don't worry about including all operating procedures or the details of all employee benefits, which may change from time to time. For example, your personnel policies can

summarize the available benefit categories, and then state where an employee can obtain more information.
- Explicitly state that handbook revisions and updated policies are intended to supersede previous handbook language and policies.
- Review and update your employee handbook at least every two years. Also, update the handbook as necessary whenever there is a significant shift in employment law or in your organization’s policies.
- Date the current copy of your handbook and keep a clear record of the policy revision schedule and the dates when new policies are approved.
- Consider distributing the handbook to a prospective employee when the offer of employment is made. Too many nonprofits continue to hand over the handbook during the first week of employment. Yet few if any new employees who have already begun work will openly protest the provisions in a handbook. Remind new recruits about key policies at the new employee orientation. This will help you highlight priority policies that employees must fully understand and comply with. It will also give you an opportunity to address any questions or confusion regarding these policies. Additionally, orientation might be the perfect atmosphere in which to study reactions to your policies and employee handbook. Watch for body language that suggests that your new employees think a policy is foolish, confusing, or purposeless. If you notice reactions like these, maybe it’s time to do a little more research with your employees to learn which policies they believe in and actually follow. Remember that policies must be enforceable, realistic, and your team must buy into the policies before they will be regularly followed.
- Make the handbook accessible in both hardcopy and digital formats. This will allow employees to access information virtually at any time, and in the format that best meets their individual needs.

Spice It Up! Modernize Your Employee Handbook

Some of the most troublesome handbooks reference obsolete policies and incorrect information. A stale handbook invites behaviors that simply do not support your organization’s mission and future. Handbook elements typically become stale for one of two reasons:

1. Over time, practices change so that the written policy no longer reflects agency practice. For example, ABC Nonprofit follows the traditional nine-to-five work schedule. As the organization grows and strives to attract top talent, it begins offering telecommuting and ‘flextime’ options to employees. The gradual, informal shift is not documented in policy, and a few new employees feel confused and disgruntled when they first read the employee handbook, which doesn’t describe the flexibility they were promised, but instead references the traditional work schedule.
2. Over time, policies fail to keep up with evolving practices in public and private employment. An example of this is the recent trend for organizations to shift to Paid Time Off (PTO) policies, which are a modern alternative to traditional vacation and sick leave policies. PTO can ease the employer’s burden by eliminating the need for employees to either produce a doctor’s note or tell a convincing lie about feeling unwell when they simply need a day off. PTO also eliminates the resentment in workplaces with employees who use sick leave regularly and those who never do. PTO policies permit employees to decide how they will use their time off. Although it appears to be an evolving and beneficial Human Resources practice, many nonprofits are still slow to adopt PTO.

If the examples above resonated with you, then it’s time to revitalize your handbook so it speaks to your 21st century employees. Be bold with your handbook—make it accessible, educational, and if possible, entertaining for your employees. Consider the value of entertainment in regards to your handbook—while it’s not typical to draft a handbook that is ‘fun’ to read, maybe that’s part of the reason why employees often fail to fully read their handbooks! Try these creative approaches to handbook drafting:

1. Integrate infographics or short, educational videos (~2 minutes) into your employee handbook to make essential content more memorable. There are plenty of user-friendly infographic and video tools online that offer free basic user accounts.
2. Consider using storytelling techniques, videos, and other engaging learning resources during team meetings in which the handbook is reviewed and discussed. For example, to note the significance of a policy you are reviewing during new employee orientation, tell a real, impactful story about a time when the policy was breached at your nonprofit. Then mix things up and use a short video to describe the next policy that you need to review. By using multiple techniques to review the handbook and specific policies, you will cater to diverse learning styles while giving employees a mental break from pure lecture.
3. Create a scavenger hunt or other game to get employees to read the handbook. Give new employees a chance to collaborate and review the employee handbook while searching for answers to questions about key employment policies. You can also include clues or questions that require new employees to meet their team members or to visit specific departments within your organization.

Last, watch out for these four things to never include in a handbook:

1. Language implying that if an employee makes it through the introductory work period (often called the ‘probationary period’), the employee is somehow less vulnerable to termination. For example, forgo the phrase ‘permanent employee.’ Sometimes this language is used to distinguish employees who have completed a ‘probationary period’ and are therefore eligible to remain employed. However, the word ‘permanent’ can weaken the at-will employment doctrine—the idea that the employment relationship may be terminated at any time and for any legal reason. Remember to prominently display your at-will employment disclaimer, and replace the phrase ‘permanent employees’ with a more appropriate expression such as ‘regular employees.’
2. Any language that limits the nonprofit’s flexibility in regards to employee discipline and termination. For example, do not use any language stating that termination can only be for cause. Additionally, do not include a narrowly defined list of reasons for termination. Similarly, do not include a definite list of disciplinary action (e.g., progressive discipline actions). An employee might interpret this language as meaning that *all* the disciplinary actions must be followed prior to termination, or that disciplinary actions must be applied in a certain order prior to termination.
3. “*We do not pay overtime*.” A version of this phrase often appears in nonprofit employee handbooks. The good intention behind its use is that the nonprofit wants to warn employees that overtime work isn’t permitted because overtime pay is beyond the nonprofit’s means. This phrase suggests, however, a nonprofit’s intent to violate the wage and hour laws. If a non-exempt employee works overtime, he or she must be paid premium pay, regardless of the nonprofit’s budgetary situation. Along with that pay, the employee may be disciplined for violating the organization’s rules about working overtime. That discipline could be mild to severe, ranging from a verbal warning to suspension or termination for repeated violations.
4. “*Confidentiality is assured*.” The topic of confidentiality often arises in an employee handbook. While it deserves mention, it’s never appropriate to provide outright assurances of confidentiality when the nature of the matter may require that persons within the organization be informed of the allegations or status of an investigation. Instead of promising confidentiality, consider stating that “*All complaints will be investigated promptly and as confidentially as possible*.”

Overly Broad Policies May Violate the NLRA

In March 2015 guidance from the National Labor Relations Board (See Memorandum GC 1504), the agency provides specific examples of overly broad handbook language that violates Section 7 of the National Labor Relations Act (NLRA). Also provided are examples of permissibly narrow language. Handbook drafters and Personnel Committees creating or revising a nonprofit’s handbook should review the the Memorandum before completing their work.

The following are examples of language the NLRB considers overly broad, and therefore in violation of employee rights under the NLRA:

- [Be] respectful to the company, other employees, customers, partners, and competitors.
- Do not make fun of, denigrate, or defame your co-workers, customers, franchisees, suppliers, the Company, or our competitors.

When an employer requires employees to be respectful to customers, competitors, and the like, without specifically mentioning or narrowly focusing on management or the company itself, the workplace conduct rule is unlikely to violate Section 7 of the NLRA.

Memorandum GC 1504 contains the following examples of permissible workplace conduct rules:

- No rudeness or unprofessional behavior toward a customer, or anyone in contact with the company.
- Employees will not be discourteous or disrespectful to a customer or any member of the public while in the course and scope of [company] business.”
- Each employee is expected to work in a cooperative manner with management/supervision, coworkers, customers and vendors.
- Each employee is expected to abide by Company policies and to cooperate fully in any investigation that the Company may undertake.
- Being insubordinate, threatening, intimidating, disrespectful or assaulting a manager/supervisor, coworker, customer or vendor will result in discipline.

An important consideration for handbook drafters is to avoid overly broad rules that could “chill” protected concerted activity that is specifically protected under the NLRA. For more information, visit www.nlrb.gov.

The employee handbook should be viewed as a cornerstone—a revered piece of your organization’s foundation, and a resource that employees celebrate rather than denigrate. If your handbook is nonexistent or simply doesn’t live up to this description, then get to work drafting a handbook that you are proud to hand to your new hires. Happy handbooking!

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