

Five Things That Should Never Appear in an Employee Handbook



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An employee handbook is a valuable risk management tool when it lays down the organization's expectations and spells out the consequences if employees don't live up to the expectations. There are numerous resources available to help guide you with regard to essential handbook components. This article focuses on five common mistakes found in employee handbooks and how to remedy them. Why not double-check your handbook to make certain that you haven't committed one of these errors?

1. **Permanent** — The word permanent appears in employee handbooks to distinguish employees who have completed a work review or probationary period. The idea behind the use of the term is that once employees complete probation, they are "permanent." However, permanent should never appear in an employee handbook or be used to describe employees. Using the term weakens the important doctrine of "at-will employment" — the idea that the employment relationship may be terminated at any time and for any legal reason. Choose a more appropriate term such as "regular" to describe staff members who have completed your work-review period.
2. **"We Do Not Pay Overtime"** — In recent years I have seen this phrase appear in handbooks. The good intention behind its use is that the nonprofit wants to warn employees that overtime work isn't permitted because overtime pay (time and a half or premium 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.
3. **The Name of (or reference to) Another Organization** — You might be surprised to learn that the practice of copying another organization's employee handbook and substituting the new organization's name for the old is quite common. Starting with someone else's handbook isn't an awful idea, as long as you're committed to undertaking a thorough review of every line and word to adjust them to meet the needs of your nonprofit. Never rely simply on the "search and replace" feature of your word-processing program or your speed-reading skills. Remember that policies that are suitable for another nonprofit may be entirely unsuitable in your organization. A recent client presented a handbook that contained a generous family leave provision. The provision assured compliance with the Family and Medical Leave Act that applies to employers with 50+ employees. But it wasn't suitable for a nonprofit with a staff of three.
4. **"And after the third violation ... "** — Does your employee handbook contain overly prescriptive

disciplinary measures? During a recent consulting assignment, I discovered that our client's employee handbook contained nearly three pages of text pertaining to employee tardiness and absenteeism. When we queried the executive director about his ability to follow the detailed policy, he admitted that he had no idea what the policy said nor was it his practice to follow the policy. The best handbooks afford management maximum discretion in determining the discipline that should apply in a given instance. Statements such as "violation of this policy could result in discipline, up to and including termination" indicate that management will determine the appropriate discipline in a given instance. Of course, it is essential that managers understand the importance of being even-handed when disciplining employees.

5. **"Confidentiality is assured"** — Whether you are outlining your policy prohibiting sexual harassment or indicating your employee protection (whistle-blowing) policy, 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 the status of an investigation. Instead of promising confidentiality, consider stating that "All complaints will be investigated promptly and as confidentially as possible."

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