

3 TIPS FOR AN EFFECTIVE EMPLOYEE HANDBOOK

Under Arizona law, all employment is presumed to be “at-will.” This means that unless an employment contract has been established, either the employer or the employee may terminate the employment relationship at any time without any reason at all. However, an employment handbook that is not carefully drafted may unintentionally create an implied agreement and create problems for the employer down the road. Here are three tips that will help you avoid potential pitfalls.

I. Include Disclaimers

Disclaimers regarding the “at-will” relationship should appear in your handbook early and often. These disclaimers will help prevent employees from arguing that the handbook creates a contract. In the last two years, multiple courts have ruled that such disclaimers are effective in preserving the “at-will” relationship despite employees’ attempts to argue otherwise.

II. Paint with a Broad Brush

A common mistake in drafting employee handbooks is being too specific. Instead of trying to include detailed policies to cover every common occurrence, use the handbook to discuss your business philosophy and the general expectations you have for your employees. Don’t create specific expectations in the minds of employees by making promises you may not be able to keep. For example, instead of stating, “compensation will be increased annually based on performance,” simply state, “generally, performance is reviewed annually.” This will not create an expectation in the mind of your employees and will allow you the flexibility to review performance and increase or decrease compensation at any time.

III. Don’t Tie Your Hands

Finally, don’t tie your hands by creating strict policies that cannot be followed in every situation. A common misstep occurs when drafting guidelines for employee discipline. Many handbooks attempt to punish all offenses using the same escalating scale of discipline. For example, a poorly drafted handbook might provide for a verbal warning for a first offense, a written warning for a second offense, suspension for a third offense, and termination for a fourth offense. Now, that may seem logical for minor offenses such as showing up late or making excessive personal phone calls. However, what if an employee’s first offense is punching his supervisor in the nose? In that situation, should the employer be limited to issuing a verbal warning and prevented from terminating the employee until four such offenses have been committed? That is probably not the result the employer had in mind. A well-drafted discipline policy can go a long way in preventing headaches for employers (and supervisors).

Remember, providing guidance for your employees and protecting yourself against future claims should be the goals of your employee handbook. Do not attempt to include unnecessary details that will create expectations in the minds of your employees. In addition, remember that no two companies are exactly alike, and your handbook should be customized to reflect your unique policies and guidelines.