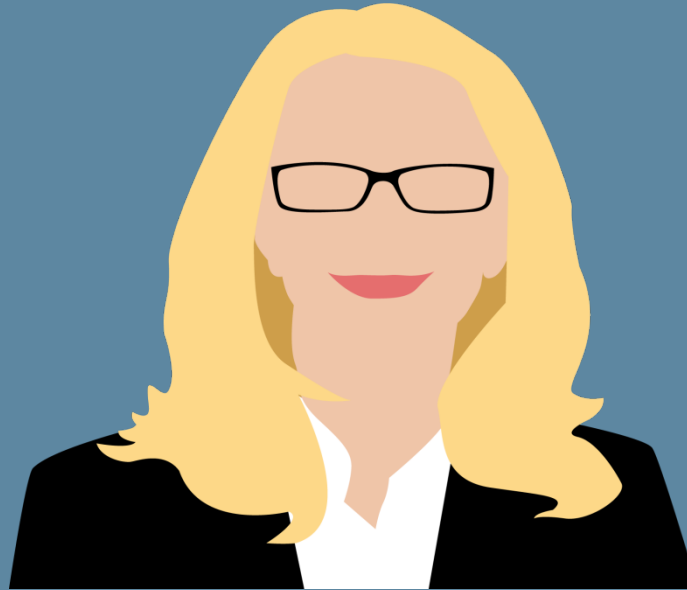


Legal Lunch with Laura



Laura L. Rubenstein, Esq.

Offit Kurman, P.A.

410.209.6433

lrubenstein@offitkurman.com

Future Lunch Dates

Tuesday, January 15, 2013
(Enhancing Communication Skills)

*Webinars are held on the third Tuesday of every other month from 12:00 – 1:00 p.m.

Employee Handbook Updates to Consider for 2013

Presentation by
Laura L. Rubenstein, Esq.

Objectives for today's Webinar

- Highlight various employee handbook provisions and discuss their purpose
- Address latest legal rulings and developments that warrant language changes

Disclaimer: This webinar is provided for informational purposes only and is not legal advice. Participation in this webinar does not create an attorney-client relationship with Attorney Rubenstein or Offit Kurman. The opinions expressed throughout this webinar are the opinions of Attorney Rubenstein and may not necessarily reflect the opinions of Offit Kurman.

Webinar Poll

Does your company have an employee handbook?

A. Yes

B. No

C. n/a

Webinar Poll

How often do you refer to the handbook for guidance in handling an employee matter?

- A. Weekly
- B. Monthly
- C. Hardly ever
- D. We don't have a handbook

Why have a handbook at all?

- **Protects against liability**
- **A prerequisite for EPLI insurance**
- **To address special circumstances in your workplace**
- **Provides expectations for your employees**

Webinar Poll

When is the last time your company's owners/managers/directors reviewed your employee handbook?

- A. Pretty recently
- B. Never
- C. Not sure

Employee handbooks should be reviewed and updated as necessary.

Consider bringing in an outside trainer to review updated policies in your handbook.

Handbook Receipt

Obtain a signed handbook receipt from your employees.

Keep the signed receipt in their personnel file.

Proof that the employee received the handbook and was informed of policies.

Disseminating Handbooks

Don't distribute without highlighting key changes to the policies and explaining why those changes were added or eliminated.

“At Will” Employment

- At will statements have been targeted by the NLRB for infringing on employees' rights to bargain collectively.
- Challenged language:
“I further agree that the at-will employment relationship cannot be amended, modified or altered in any way.”

“At Will” Employment

- Acceptable language: “No representative of the Company has authority to enter into any agreement contrary to the foregoing ‘employment at will’ relationship.”
- Suggested language: “The ‘at-will’ disclaimer is not intended to interfere with, limit or relinquish an employee’s right to join with others to work toward altering the terms or conditions of his/her employment, including the at-will status.”

Open Door Policy

- State you have an open door policy and demonstrate you have an open door policy.
- Make sure employees know you are interested in their welfare and opinions about how to improve operations, sales or employee relations.

EEO Policy

"We are an Equal Opportunity Employer. This means that we will extend equal opportunity to all individuals without regard for race, religion, color, sex, national origin, age, disability, sexual orientation or any other classification covered under federal, state or local law. This policy affirms the company's commitment to the principles of fairness in all terms of employment including hiring, training, transfer, promotion, layoff, recall, and termination."

Workplace Harassment/Discrimination

- You must have a workplace harassment/discrimination policy
- The policy must be somewhat detailed and inform employees of their obligations under the policy.
- Include an anti-retaliation statement.

Compensation

- Deductions are required for employees
- Define OT policy, pay schedules, etc.

Work Schedules

- What are your company's hours of operation?
- Are they different from employee work hours?
- How is "full-time" defined?
- How are latenesses and absences handled?
- How are employees recording their time?

Standards of Conduct

Written expectations of employees representing your company should address:

- Giving and accepting gifts
- Outside business transactions
- Questionable loans or lending
- Engaging in competing business

Safety and Security

Address safe workplace standards such as:

- Reporting unsafe work conditions
- How to report a workplace accident
- Safeguarding electronic systems
- Abide by OSHA rules
- Safe driving practices

Inclement Weather Policy

Explain to employees how office closures will be communicated in advance of inclement weather and remind them just before weather is predicted.

Address under what circumstances employees will be paid or if they have to use accrued paid time off.

Use of Company Equipment

Address the employees use of the company's voicemail, e-mail, internet “no expectation of privacy.”

Social Networking

- The NLRB is again stepping in to address complaints that companies are regulating or restricting employee comments made on social networking sites.
- Acceptable policy language can include:
“No harassment, bullying, discrimination or retaliation even if after hours, from home or on home computers.”

Return of Company Property

"If your employment with the company terminates, for any reason, you must promptly return to the Company all confidential documents and other materials that you have. You are not permitted to retain copies of any such documents or materials.

In addition, keys, sales promotional materials, lists, equipment, software and all other tools an employee was assigned must be returned."

Access to Personnel Files

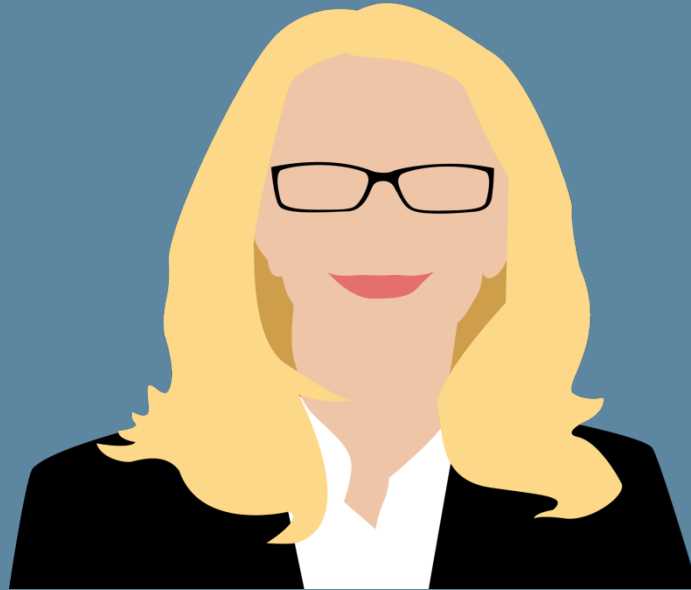
- Personnel files are company property.
- Employees may be permitted to access their own files in the presence of Human Resources.
- Question why a former employee is requesting a copy of his personnel file.

Other Policies to Consider for Your Handbook

- Not a contract
- Probationary Period
- Training
- Vacation, sick leave, holidays, other PTO
- Visitors in the workplace
- Personal property and the expectation of privacy
- Benefits
- FMLA Leave
- Other leaves of absences
- Military Leave
- Progressive Discipline
- Termination
- Termination Appeal Procedures
- No smoking
- List of unacceptable behaviors
- Anti-Solicitation

Questions?

Legal Lunch with Laura



Laura L. Rubenstein, Esq.

Offit Kurman, P.A.

410.209.6433

lrubenstein@offitkurman.com