

Employee Handbook Policies Update – 2019

Presented By:

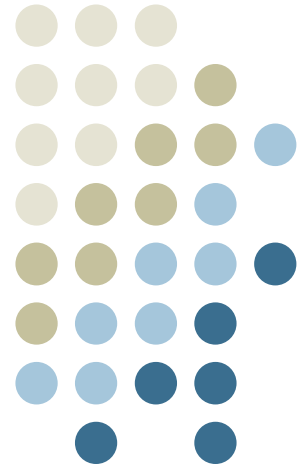
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Employee Handbooks – What's the Purpose?



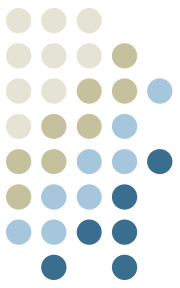
Employee handbooks should serve two (2) purposes:

- 1) Inform employees about their obligations to the employer; and
- 2) Inform employees about what they can generally expect from the employer while still preserving the employer's ability to exercise discretion in each circumstance.

IMPORTANT – Generally, Employee Handbooks should be separate and distinct from Management Manuals, which typically provide supervisors more instructions and description on how to implement company policies and provide more detailed information about the employer's management philosophy.



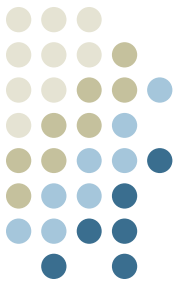
Employee Handbook – Your 1st Line of Defense to Employee Claims



- Establishes notice to employees as may be legally necessary for certain defenses;
- Ensures information is communicated accurately and consistently;
- Keeps managers and supervisors on track;
- Spells out expectations;
- Guides employees to problem solvers; and
- Fairly warns employees before discipline is administered.



Employee Handbook – Make It An Asset, Not a Liability



- Workable
- Accurate
- Clear and concise
- Review and Update Regularly
 - What is “regularly”?
 - Why Update? – Incorporate changes in the law and changes to your organization’s policies, practices and procedures.



MISTAKE: Applying a One Size Fits All (regardless of geography or type of employee)



SOLUTION?

One Master HB with:

1) Local/State specific supplements.

NOTE: Such supplements may have to be modified or supplemented more frequently than the Master HB

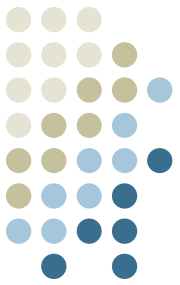
2) Exempt vs. Non-Exempt or Management vs. Non-Management or General Labor vs. Professional

NOTE: Some policies may need to be modified to deal with certain types of employees differently



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Changes to Laws that are Impacting Employee Handbooks and Policies

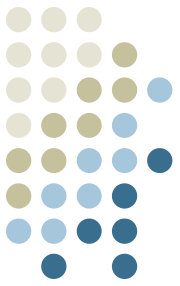


CURRENT LAWS –

- Illinois Compassionate Use of Medical Cannabis
- **ILLINOIS RECREATIONAL CANNABIS**
- Illinois Conceal Carry Law
- Illinois Pregnancy Law
- Paid Sick Time Laws –Chicago, Cook County
- NLRB Decisions and Guidance regarding certain language
- EEOC Guidance regarding certain language
- **NEW IHRA AMENDMENTS & OTHER CHANGES IN ILLINOIS ANTI-HARASSMENT AND DISCRIMINATION**



MISTAKE: Failing to Include Policy Modification Language

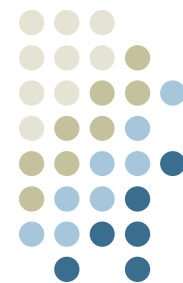


- **EXAMPLE:** [No language addressing modification]
- **MODEL:** *The Company* may revise or revoke any portion of this Employee Handbook or any employee benefit at any time without prior notice.

Further, any revision or revocation of any portion of the employee handbook or any employee benefit, must be approved only by the President in writing.



MISTAKE: Failing to Use Plain Language That is Clear and Concise



Using Convoluted Language that is Complicated and Difficult to Understand... (i.e. Legalese)

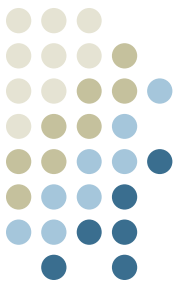
SOLUTIONS:

- Use Plain Language that can be understood by your employees.
- Use Common Sense rules which experience has shown to be both necessary and effective in maintaining sound working relationships and conditions.
- Be Clear and Concise in describing and providing examples of conduct which can result in disciplinary action.



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MISTAKE: Failing to Use Plain Language That is Clear and Concise



Consider having your Employee Handbook **translated** into the primary language of an employ to show that they are able to **FULLY** understand the Company's policies.

Consider, again, purposes of a handbook...

- Protesting unemployment claim for gross misconduct
- Defending charge of discrimination/harassment by showing employee failed to adhere to reasonable complaint mechanism
- Limiting wage & hour claims by showing employee failed to reasonably report mis/under-payments
- Basis for discipline/termination of protected-class employee (e.g., injured employee & safety rule violation).



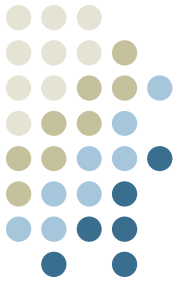
Handbooks Help Maintain “At-Will” Employment Relationship



- Contract Disclaimers....
- No Promises....
- Designate One Official to Bind Employer to any Contract including Contracts for Employment



MISTAKE: Ineffective Contract Disclaimer or “At-Will” Employment Language



EXAMPLE: This Employee Handbook does not in any way alter the employment-at-will relationship between *the Company* and its employees.

MODEL: This Employee Handbook is not an employment contract. This Employee Handbook does not establish a contract (express or implied) between The Company and any employee regarding terms and conditions of employment. This Employee Handbook does not in any way alter the employment-at-will relationship between *the Company* and its employees. *The Company* and each employee have the right to terminate the employment relationship (at any time, with or without cause or notice).

Please be advised that no supervisor, manager, or representative of the Company other than the President has the authority to enter into any agreement with any individual for employment for any specified period of time or to make any promises or commitments contrary to the foregoing. Further, any agreement or contract for employment entered into by the President on behalf of the Company is unenforceable, unless it is in writing and signed by the President.



MISTAKE: Failing to Have Employees Acknowledge Receipt of Handbook



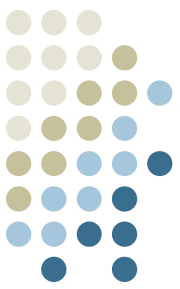
Save acknowledgment in personnel file!!

MODEL:

- Identify handbook version/date
- Revokes and supersedes prior handbooks/policies
- Company right to change all policies and practices, including hours, wages, and working conditions, and interpret same.
- Employment at will
- Workplace search policy
- Employee's obligation to read and comply with handbook.
- Name, date, signature



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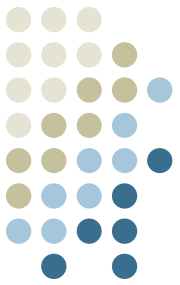


Non-Discrimination Policies

1. Equal Employment Opportunity Policy
2. Harassment Based on (REAL OR PERCEIVED) Race, Color, Religion, Gender, Sexual Orientation, Gender Identity, National Origin, Genetic Information, Age or Disability (OTHERS)
3. Sexual Harassment
4. Disabilities Accommodation
5. Pregnancy Accommodation



Equal Employment Opportunity Policy



MODEL: The Company is an equal opportunity employer. Qualifications for employment and promotion are based upon ability to perform the job. Equal employment opportunities are provided to all applicants and employees without regard to [any protected characteristic].

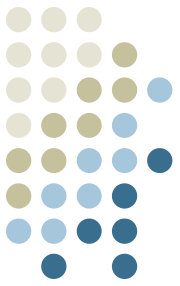
Everyone will be given equal opportunity commensurate with their abilities.

We earnestly seek the cooperation of all employees in helping to maintain this policy.



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MISTAKE: Failing to update to reflect changes to laws

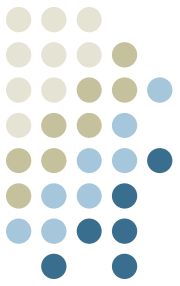


MODEL: Update lists of protected categories and use a catchall phrase of “or any other characteristic protected by law.”

- . . . race, creed, religion, color, age, national origin, gender, sex, sexual orientation, gender identity or transitioning status, pregnancy, genetic information, ancestry, marital status, military discharge status, veteran status, citizenship status, sealed or expunged arrest records not resulting in conviction, or any other characteristic protected by law.
- mental or physical disability which does not prevent the individual from performing the essential functions of the job, with or without reasonable accommodation.
- Laws regarding veteran's status will also be observed.
- PERCEIVED status is also unlawful.



Anti-Harassment: Defining & Describing Prohibited Conduct



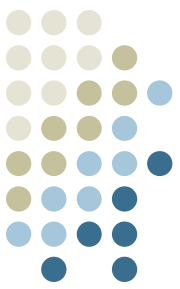
MISTAKE: Overly detailed list of harassing conduct.

MISTAKE: No description of what may be considered harassing.

MODEL: Harassment includes (but is not limited to) name-calling, letters, jokes, e-mail, cartoons, graffiti, pictures, posters, gestures, ethnic slurs, racial epithets, and other conduct, which is aimed at a particular employee or group of employees. INSERT EXAMPLES!



MISTAKE: Failing to Understand Harassment May Come from Many Sources



MODEL: Harassment applies to the conduct of a

- supervisor toward a subordinate (and vice versa),
- an employee toward another employee,
- a non-employee toward an employee,
- an employee toward an applicant for employment, or
- an employee toward a non-employee (i.e. IC).

Harassment can apply to conduct outside the workplace as well as at the work site.



MISTAKE: Failing to Protect Against Retaliation

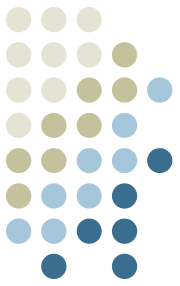


MODEL: Protection Against Retaliation

Any employee who reports an alleged incident of sexual or other unlawful harassment or discrimination will under no circumstances be subject to reprisal or retaliation of any kind. Any employee who feels he or she has been subjected to such adverse actions should report those actions to his or her supervisor, or to the Manager On Duty. Any employee, however, who is found to have knowingly made a false accusation of harassment, discrimination or retaliation, may be subject to appropriate disciplinary action up to and including termination.



MISTAKE: No Complaint Procedure



MODEL: Complaint Procedure

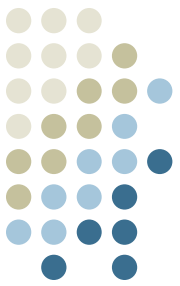
Employees who wish to register a complaint of sexual harassment (or any form of harassment or discrimination based on any characteristic protected by law), or who wish to inform the Company that conduct violating this policy may be occurring, may do so through NAME/TITLE, at CONTACT INFO, or their supervisor or any other appropriate member of management.

All such allegations will be investigated thoroughly. The facts will determine the response of the Company to each allegation. Substantiated acts of harassment will be met with appropriate disciplinary action by the Company up to and including termination. All information regarding any specific incident will be kept confidential within the necessary boundaries of the fact-finding process. No reprisal or retaliation against the employee reporting the allegation of harassment will be tolerated.



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Disability Accommodation – ADA(AA) and Illinois Human Rights Act



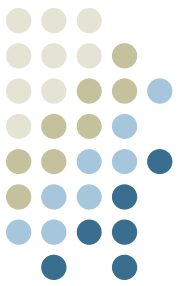
MISTAKE: Failing to have limits on accommodation.

MODEL: All employees are required to comply with safety standards. Applicants who pose a direct threat to the health or safety of other individuals in the workplace, which threat cannot be eliminated by reasonable accommodation, will not be hired. Current employees who pose a direct threat to the health or safety of the other individuals in the workplace will be placed on appropriate leave until an organizational decision has been made in regard to the employee's immediate employment situation.



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Pregnancy Accommodation – IHRA



MISTAKE: Failing to update policies to include pregnancy accommodation

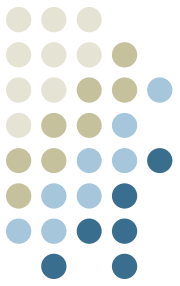
MODEL: It is the policy of The Company to comply with all Federal and state laws concerning the employment of who are pregnant (including **pregnancy, childbirth, or medical or common conditions related to pregnancy or childbirth**).

- It is The Company's policy not to discriminate...
- The Company will reasonably accommodate...
- The Company will not require an employee who is pregnant to (i) accept an accommodation if none was requested, (ii) take leave when another reasonable accommodation is available.
- Reinstatement rights...
- Notice of intent to return...

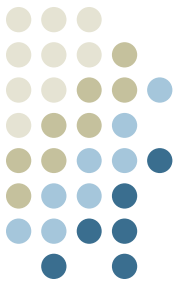


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New IL Postings Required to be Included in HB's



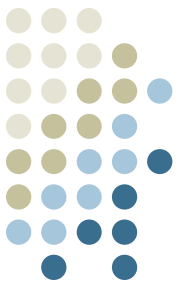
- See attached (Pregnancy and IHRA).



Basic Employment Policies

1. General Rules of Conduct
2. NLRA issues, generally

Basic Employment Policies – General Rules and Regulations



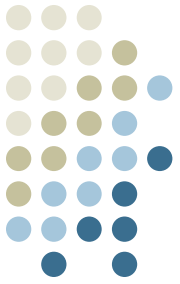
MISTAKE: Rules that are **too rigid** (“Employees who ____ shall be terminated...”) or provide a guarantee of **progressive discipline** (“A first offense will result in discipline up to a written warning.”)

MODEL: *Employees who fail to adhere to the Company Code of Conduct are subject to disciplinary action up to and including immediate termination...*

Note: Have a list of general “Appropriate Conduct” Guidelines... These should be relied upon in effectuating discipline and termination, especially to protect unemployment claims and



Basic Employment Policies – Union-Free Policy



MISTAKE: Not having Section 7 Rights disclaimer

MODEL:

The Company feels very strongly that labor unions do not serve the best interests of our individual employees or of the Company as a whole. As a Company, we are proud of the fact that our fellow employees agree with the Company and have determined to remain non-union. This attitude tells us that The Company employees are proud that they have the freedom to communicate and work with their manager to resolve those day-to-day problems which arise in any job. They also know they do not have to turn over a portion of their paycheck to a union each month to be assured of fair treatment from their Company.

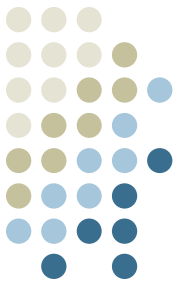
The Company enthusiastically accepts the responsibility for providing its employees with good working conditions, competitive wages, excellent benefits and the personal respect that each employee deserves.

Nothing in this policy is designed to interfere with, restrain, or prevent employee communications regarding wages, hours, or other terms and conditions of employment. Employees have the right to engage in or refrain from such activities.



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Handbook Considerations in Relation to Unions and the NLRB

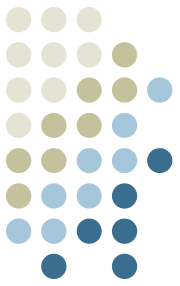


The NLRB issued guidance on what it considers “unlawful” language in the following types of policies:

- Company Confidentiality;
- Employee Conduct
 - Conduct towards the Company and Supervisors;
 - Conduct towards other Employees;
 - Interaction with Outside Parties (i.e. media and governmental agencies);
- Banning/Limiting Use of Company Logos, Copyrights and Trademarks;
- Restricting Photography, Video Recordings and Electronic Devices
- Restricting Employees from Leaving Work
- Conflict of Interest Rules (i.e. not in the best interest of the Employer)
- Handbook disclosure provision
- Social Media Policy
- No distribution/No solicitation provision



NLRB Guidance on Language of “Unlawful” Policies

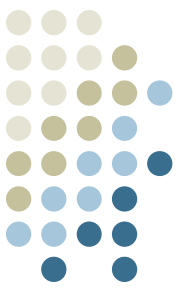


IMPORTANT – Things to Remember about the NLRB Guidance

- The NLRB guidance does not have the force of law.
- Under the NLRB’s determinations and guidance whether policy language is unlawful depends a lot on Context.
- The NLRB’s guidance does not mean that you cannot have these policies or that they are automatically unlawful, but rather that closer attention should be paid when drafting these types of policies.
- Trump’s Board is much more lenient than Obama’s Board. But... remember, politics is cyclical!!



Basic Employment Policies – No-Solicitation/Distribution and Access Policies

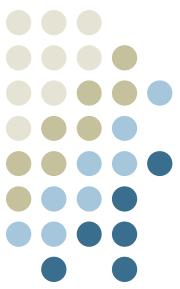


ISSUE: The NLRB has found employer’s non-solicitation language to violate the NLRA when it does not clarify that it is limited to “during working time” and “in working areas.”

MODEL: *In the interest of maintaining a proper business environment and preventing interference with work and inconvenience to others, employees may not distribute literature or printed materials of any kind, sell merchandise, solicit financial contributions or solicit for any cause during working time. Furthermore, employees may not distribute literature or printed material of any kind in working areas at any time.*



MISTAKE: Applying Handbook to Union Workforce Without Representative Input



SOLUTION?

Offer the union an opportunity for input. In doing so, you can undercut the Union's argument that there was unilateral action by the Employer without appropriate "bargaining."

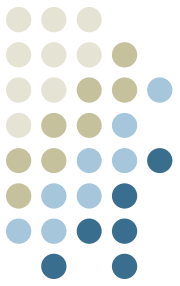
***INCORPORATE/REFER TO WORK RULES IN THE COLLECTIVE BARGAINING AGREEMENT. It's usually worth any "fight" at the bargaining table. *Stay strong people!*

***Insist on a strong Management Right's clause



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MISTAKE: Overreaching Curbing of NLRB “Protected Concerted Activities”



Employers must recognize an employee’s right to engage in concerted protected activities!

- **Employers CAN...**

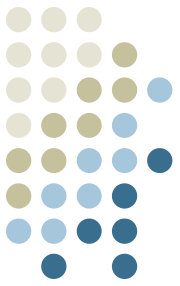
- Prohibit use or disclosure of trademarks, logos, proprietary information/data, and competitive activities...(*with proper language)
- Prohibit employees from harassing, threatening, stalking or bullying other workers...(*with proper language)

- **Employers CANNOT ...**

- Prevent, prohibit, or limit employees from discussing with or complaining to others about workplace terms/conditions
- Prevent, prohibit, or limit employees from forming, joining or assisting labor unions.



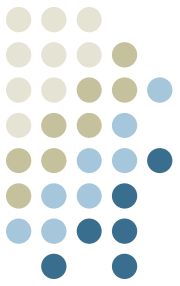
Basic Employment Policies – What about English Only?



- Will likely be deemed unlawful unless there is a business need requiring English only to be used. Very limited circumstances.
- Prohibition on idle “chit chat” is where most employers face legal problems.



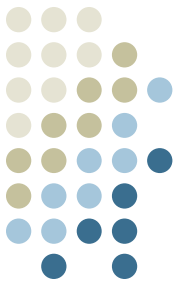
Attendance and Time Away From Work Policies



1. No-Fault Attendance Policies
2. Emergency Closure
3. Family and Medical Leave Act Policy
4. Medical Leaves of Absence



Attendance and Time Away From Work Policies



5. Personal Leaves of Absence
6. Bereavement Leave
7. Military Leave
8. Family Military Leave



Attendance and Time Away From Work Policies



9. Witness & Jury Duty

10. Vacation

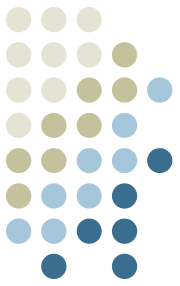
11. Personal Days

12. Sick Days



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Attendance and Time Away From Work Policies



13. Holidays

14. Layoff and Recall

15. Job Abandonment

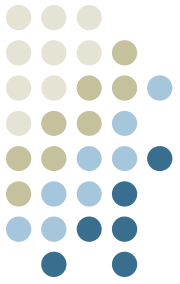
16. Unpaid Leave Due to Domestic and Sexual Violence

- i. Employers with 50 or more employees (12 weeks)
- ii. Employers with 15-49 employees (8 weeks)
- iii. Employers with 1-14 employee (4 weeks)



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Attendance and Time Away From Work Policies – No-Fault Attendance



MISTAKE: Counting medical absences under a NFAP.

MODEL:

Regular attendance and punctuality are very important at The Company. Employees are expected to begin and end work on schedule. The Company recognizes that circumstances beyond an employee's control may cause him/her to be absent from or late to work. If you are going to be late or absent, you must call your supervisor to notify him/her of the reason for your tardiness or absence. Excessive absenteeism or tardiness in connection with scheduled work times, breaks and meal periods will result in disciplinary action up to and including termination.

Should an employee be unable to report to work due to illness, the employee must notify his/her supervisor at least one hour before the employee's starting time each day of the absence. Failure to properly notify the Company will result in an unexcused absence.

If an employee is absent more than two consecutive workdays, a statement from a physician may be required before the employee is permitted to return to work.

Excessive absenteeism or tardiness will not be tolerated.

Employees who are absent from work for three (3) consecutive days without giving proper or advanced notice to the Company will be deemed to have abandoned their employment.



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Attendance and Time Away From Work Policies – Emergency Closure



Will the Company pay for emergency closure time?

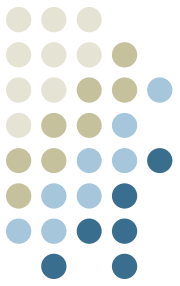
MODEL: In rare instances, such as severe weather, the Company may be subject to an emergency closure, at Management's sole discretion. In such a situation, Management will initiate a phone tree advise employees to not report to work, and will dismiss employees who have already reported. Non-Exempt Employees who have already reported to work at the time of an emergency closure will be paid for all time worked, for a minimum of 2 hours. Employees who have not reported for work will not be paid for emergency closure time.

EXEMPT SALARY EMPLOYEES will generally be paid regardless.



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Attendance and Time Away From Work Policies – Family and Medical Leave Act Policy (“FMLA”)



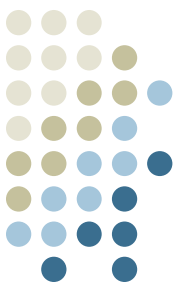
Basics:

- Employers (50 or more employees within 75 mile radius) must provide
- 12 weeks of unpaid, job protected leave to
- eligible employees (1 year of service within last 7 years, and 1,250 hours worked in past 12 months) for
- the employee's or family member's serious health condition.

- **26 weeks for family servicemember leave



Attendance and Time Away From Work Policies – Medical Leaves of Absence



MISTAKE:

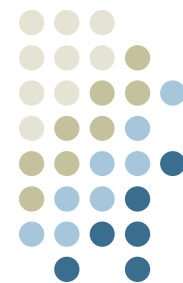
1. Believing this is mandatory as a policy
2. Failing to consider “Non-FMLA” leave as an ADA reasonable accommodation

MODEL:

*****Provide such leaves in up to 30 day blocks of time.
BUT... do NOT insist on a maximum leave period.
Reinstatement should be guaranteed for personal medical
leave to help comply with the ADA/IHRA.**



Attendance and Time Away From Work Policies – Personal Leaves of Absence

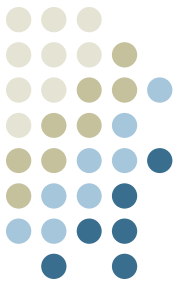


MODEL: Other Unpaid Personal Leaves of Absence

- Unpaid personal leaves of absence for a period of up to thirty (30) days may be requested by full-time regular and part-time employees who have completed six (6) months of continuous service. Personal leave may be granted for justifiable reasons in the Company's sole discretion, provided the leave does not seriously disrupt the Company's operations. Personal leaves are not granted until all accrued unused vacation has been exhausted. The employee does not accrue benefits including but not limited to vacation days when on leave. The employee will not be paid for holidays during a leave of absence. THIS IS FOR REASONS UNRELATED TO THE EE'S OWN MEDICAL CONDITION.
- Reinstatement cannot be guaranteed to employees returning from personal leave. However, the Company endeavors to place employees returning from personal leave in their former position (or in a comparable position) subject to budgetary restrictions, the Company's needs to fill vacancies, and other factors within the sole discretion of the Company.



Attendance and Time Away From Work Policies – Bereavement Leave



MISTAKES: Too broad, not limiting days, not defining for whom such leave may be used.

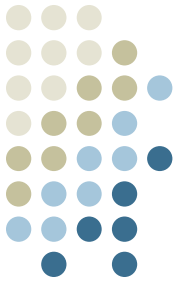
MODEL: Regular full-time employees are allowed an unpaid leave of absence up to three (3) days off for the purpose of arranging and attending the funeral of the employee's father, mother, sister, brother, spouse, child, or grandparent. Requests for funeral leave should be made to your immediate supervisor. Employees may be requested to provide documentation related to the funeral to their supervisor in order to collect bereavement pay.

NOTE: Illinois Law Mandates Unpaid Child Bereavement Leave. Illinois employers with at least 50 employees must provide employees who suffered the loss of a child with up to two weeks (10 work days) of unpaid leave under the new Child Bereavement Leave Act. BUT... also review/consider FMLA rights.



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Attendance and Time Away From Work Policies – Military Leave



MISTAKE: Failing to properly consider such leave, not limiting reimbursement

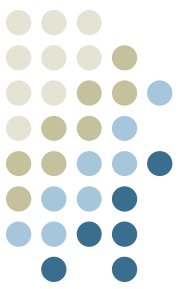
MODEL: Employees who enter the Armed Forces of the United States will be granted extended leaves of absence without pay in accordance with federal and state laws governing such leaves.

An employee who is a member of the National Guard or of a reserve component of the Armed Forces will, upon written or verbal notice, be granted a military training leave. Upon presentation of a military pay voucher, employees will be reimbursed for the difference between their normal compensation and the pay they receive while on military duty (up to 2 weeks). Training leaves will not, except in an emergency or in the event of extenuating circumstances, exceed two weeks a year, plus reasonable travel time.



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Attendance and Time Away From Work Policies – III. Family Military Leave



MISTAKES: Failing to consider eligibility, job restoration.

MODEL:

Employees who have worked for the Company for at least twelve (12) months and at least 1,250 hours for the last year are entitled to take unpaid, job-protected leave to visit with a spouse, party to a civil union, or child who has been called into military service that will last longer than thirty (30) days. While on leave, all benefits continue at the employee's expense.

Employees who return from leave under the Act will be restored to the same position or one with equivalent seniority, benefits, and pay.

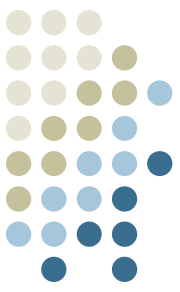
** 15 days for employers of 15-50 employees

** 30 days for employers of 51 or more employees



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Attendance and Time Away From Work Policies – III. Family Military Leave

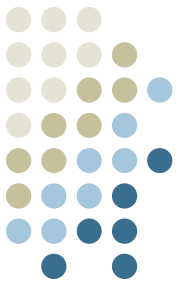


- USERRA
- ISERRA – NEW (follows USERRA mostly)

NOTE: Establishes/regulates reinstatement of employment and restoration of benefits to employees deployed in military services.



Attendance and Time Away From Work Policies – Jury & Witness Duty



MISTAKE: Not limiting paid leave.

MODEL: All employees are allowed time off if summoned to jury duty or to appear in court as a witness. Nonexempt employees may use accrued vacation or personal leave time during this period or take the time off without pay. Exempt staff members will be paid their normal salaries during any workweek in which they appear as a witness or juror and also perform services for the Company, regardless of the amount of time spent performing those services. You will be permitted to retain the allowance you receive from the court for such service.

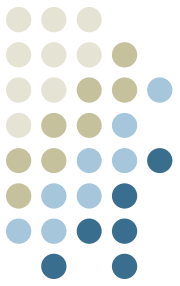
To qualify for jury or witness duty leave, you must submit to your supervisor a copy of the summons to serve as soon as it is received. In addition, proof of service must be submitted to your supervisor when your period of jury or witness duty is completed.

The Company will make no attempt to have your service on a jury postponed except when business conditions necessitate such action.



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Attendance and Time Away From Work Policies – Vacation, Personal Days



MISTAKE: Confusing accrual systems, Use-it-or-lose-it
MODEL:

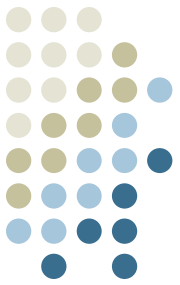
Vacation – Regular full-time employees accrue paid vacation time in accordance with the following schedule based on length of continuous service from the date of hire.

- Requests for vacation time should be made in writing and submitted to your supervisor at least two weeks in advance. If two weeks' notice cannot be given, the Company may not be able to grant the request.
- Vacation scheduling conflicts will be resolved based upon who submitted the request first. If conflicts cannot be resolved based on this criteria, the tie breaker will be awarded to the request from the employee with the most years/ months of service. In any event, the Company reserves the right to grant or deny any request for vacation time. **Any vacation time not used by December 31st of the calendar year to which it is earned and accrued will be lost.**



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Attendance and Time Away From Work Policies – Vacation, Personal Days



MISTAKE: Not specifying rate, clarifying carry over, termination
MODEL:

- When paid vacation time is taken, employees are compensated at their regular rate of pay. Vacation time is not considered time worked for purposes of overtime computation.
- **NOTE: Unused vacation benefits may not be carried forward from one year to the next.** No payments will be made in lieu of taking vacation time.
- All accrued and unused vacation benefits will be paid upon termination of employment, in compliance with state law.



Attendance and Time Away From Work Policies – Sick Days

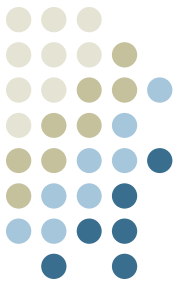


MISTAKE: Failing to consider and incorporate developing state-specific (e.g., California) and city-specific (NYC, Jersey City, Philadelphia, Chicago) paid sick leave laws

Solutions:

- Handbook Supplements – for that jurisdiction
- Consider interaction with other leaves – accrual rates, vesting, payment upon separation

Attendance and Time Away From Work Policies – Holidays



MISTAKE: Eligibility, pay rates, holidays included

MODEL: Our Company recognizes the following holidays for all full-time employees:...

- Holidays falling on a Saturday are normally observed on the preceding Friday. Holidays falling on a Sunday are normally observed on the following Monday.
- In order to be eligible to receive holiday pay, employees are required to work the regularly scheduled hours the workday preceding and the workday following the holiday unless on vacation or an approved absence.



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Attendance and Time Away From Work Policies – Job Abandonment



MISTAKE: No policy

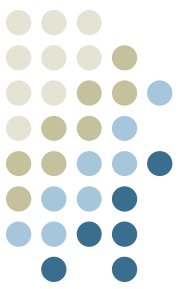
MODEL:

Employees who fail to report to work without calling for three days (“No Call No Show”) will be considered to have abandoned their jobs and voluntarily resigned their employment with the Company.



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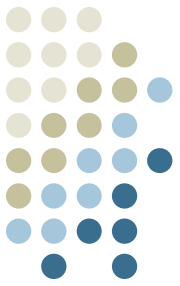
Attendance and Time Away From Work Policies – Unpaid Leave Due to Domestic and Sexual Violence



MISTAKES:

- Not considering this as a basis for leave
- providing an incorrect amount of leave
 - 0-14 employees – 4 weeks
 - 15-49 employees – 8 weeks
 - 50 or more employees – 12 weeks





Compensation Policies

1. Hours of Work
2. Timekeeping Requirements
3. Meals and Rest Periods
4. Overtime

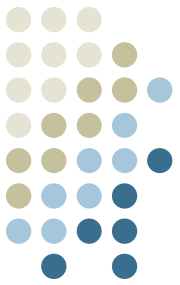


Compensation Policies

- 5. Payday
- 6. Payroll Advances
- 7. Improper Deductions From Salary
- 8. Compensation Reviews
- 9. Travel and Business Expense Reimbursement (NEW IL LAW)



Compensation Policies – Hours of Work/Schedules



MODEL:

Daily and weekly work schedules may be changed from time to time at the discretion of the Company to meet the varying conditions of business. Generally, employees will be expected to work every other Saturday when the Practice is busy. Any changes in scheduled shift must be first authorized by the Practice Manager before coverage is arranged.

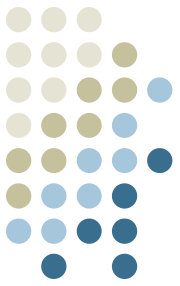
The Company is generally open to the public, patients on the following schedule:

- Monday, Wednesday and Friday from 8:00 AM to 6:00 PM;
- Tuesday and Thursday from 8:00 AM to 7:00 PM;
- Saturday from 8:00 AM to 3:00 PM; and
- Sunday closed.

However, patient visits, treatments, surgeries, clean up, preparation work, and other patient care (e.g., feeding, cleaning, and walking) may require employees to work during hours when the Practice is not generally open to the public – both before doors open to prepare for the day and after the doors close to clean up.



Compensation Policies – Timekeeping Requirements



MODEL: Reporting Hours

A time clock is provided to keep an accurate record of your work time. It is your responsibility to accurately use the time clock. If you are non-exempt, you are required to clock in and out for the start and end of your shift and meal breaks.

You must be clocked in and ready to start your shift on time. Due to the customer service aspect of our business, tardiness will not be tolerated. Unless otherwise directed by your Supervisor, you should clock in NO earlier than 5 minutes prior to the start of your shift and clock out within 5 minutes of the end of your shift. If you arrive early for your shift, unless otherwise directed by your Supervisor, you may not begin to work until after your shift begins and you are clocked in.

You are the only person authorized to clock yourself in or out. You should not clock another employee in or out, nor should another employee clock you in or out. Violation of this rule may result in disciplinary action up to and including termination.



Compensation Policies – Meals and Rest Periods



MISTAKES: Skipped breaks, unpaid work time

MODEL: *Rest Periods*

Supervisors can authorize rest periods for their employees, taking into account business and employee needs (including any disability accommodations), and the following restrictions:

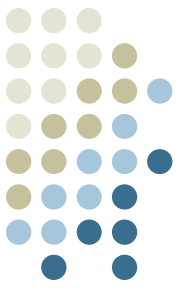
- A rest period cannot exceed 15 minutes; and
- Employees are not permitted to accumulate any unused rest periods or use rest periods as the basis for starting late, quitting early, or extending a scheduled meal period.

All employees must take scheduled breaks during each shift.

Employees in customer-facing positions should work with coworkers and supervisors to schedule and coordinate breaks to ensure proper table coverage.



Compensation Policies – Meals and Rest Periods



MODEL: *Meal Periods*

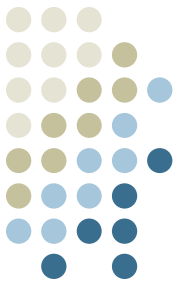
Each employee scheduled to work seven and one-half (7-1/2) continuous hours or longer must take a 20 minute break paid and uninterrupted meal period that begins no later than five hours after the start of the work period.

Meal periods do not count toward worked hours for purposes of overtime. Employees must clock out during their meal period.

Employees in customer-facing positions should work with coworkers and supervisors to schedule and coordinate meal periods to ensure proper table coverage. Employees without a pre-scheduled break must notify the Manager On Duty when they are ready for their break.



Compensation Policies – Meals and Rest Periods

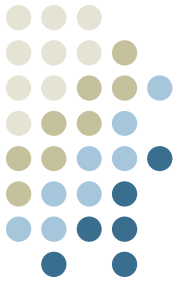


MODEL: *Meal Periods – Nonexempt Employees*

Nonexempt employees are to be completely relieved from duty and should not perform any work during their meal break. If an employee is required to perform any work duties while on his or her meal break period, the employee must be compensated for the time spent performing work duties. The time spent working during the meal break will be counted toward the total hours worked.



Compensation Policies – Overtime



MISTAKE: Not properly compensating for OT

MODEL:

Employees may occasionally be asked or offered the opportunity to work beyond their normally scheduled hours, or on their day off, at the sole discretion of the Company. A workweek for overtime purposes is 12:00 AM Monday through 11:59 PM Sunday. Nonexempt employees who are required (or permitted) to work overtime will receive overtime pay in accordance with the requirements of the Fair Labor Standards Act, state law and Company policies as follows:

- All overtime must be approved in writing in advance by the employee's immediate supervisor.
- Nonexempt employees shall be paid one and one-half their regular rate for all hours worked in excess of 40 hours in each workweek.
- "Hours worked" means time actually spent on the job. It does not include hours away from work due to vacation, sickness, or holiday (even where these days are compensated). Unpaid sick leave, personal leave (or any other time away from work) is also not considered hours worked.



Compensation Policies – Payday



MISTAKE: Requiring Direct Deposit; Not Making DD the Default
MODEL: Pay Procedures

Employees are normally paid every two weeks via direct deposit (on a Thursday). If a scheduled payday falls on a Saturday, Sunday or Company observed holiday, employees will usually be paid on the day preceding the weekend or holiday. All required deductions, such as for federal, state and local taxes, and all authorized voluntary deductions, such as for health insurance contributions, will be withheld automatically from paychecks.

Employees are responsible for ensuring that time records are accurate and complete. Falsification of time records will result in disciplinary action up to and including termination.



Compensation Policies – Payroll Advances



MISTAKE: Failing to follow Ill. Wage Payment & Collection Act

MODEL:

Example 1: The Company does not make payroll advances to employees.

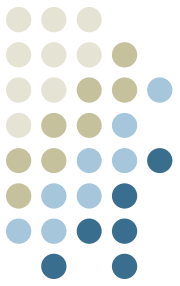
Example 2: On a case-by-case basis, the Company may permit a payroll advance to an employee in good standing. The employee and authorized Company representative **must sign an agreement** specifying the amount of the advance, the repayment schedule, and the method of repayment. The agreement will require that the employee permit a deduction from wages and final compensation should the employment relationship terminate prior to repayment of the cash advance.

NOTE: If the company does not do this properly, may not simply deduct from wages – small claims court instead.



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Compensation Policies – Improper Deductions From Salary (Exempt)



MISTAKE: Reducing salary of exempt employee for working less than regularly scheduled week

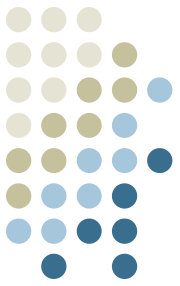
MODEL:

Exempt employees normally must receive their full salary for any week in which they perform any work, without regard to the number of days or hours worked. However, exempt employees need not be paid for any workweek in which they perform NO work at all for the organization.

Deductions from pay cannot be made as a result of absences due to {jury/witness duty, temporary military leave, absences caused by the employer, absences caused by the operating requirements of the business, partial day amounts} provided that some work is performed in the workweek. Such improper pay deductions are therefore specifically prohibited by The Company, regardless of the circumstances. Managers or supervisors violating this policy will be subject to investigation of their pay practices and appropriate corrective action in accordance with normal procedures.



Compensation Policies – Improper Deductions From Salary (Exempt)



MODEL: Exceptions to Salary Basis Rules

In following cases, deductions may be permissible as long as they are consistent with other company policies and practices.

- Absences of one or more full days for personal reasons other than sickness or disability (partial days must be paid).
- Absences of one or more full days due to sickness or disability.
- Fees received by the employee for jury or witness duty or military leave may be applied to offset the pay otherwise due to the employee for the week.
- Penalties imposed by infractions of safety rules of major significance.
- Unpaid disciplinary suspensions of one or more full days in accordance with The Company's disciplinary policy.
- Deductions for the first and last week of employment, when only part of the week is worked by the employee.
- Deductions for unpaid leave taken in accordance with a legitimate absence under the Family and Medical Leave Act, if applicable.



Compensation Policies – Compensation Reviews



MISTAKE: Promising pay increases (or even a flat line!)

MODEL:

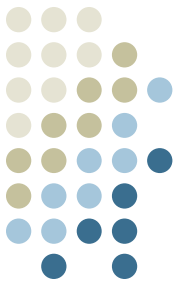
Without demonstrated progress in performance on the job, an employee should not expect to receive a merit increase. Merit increases are not automatic or annual, nor does time on the job itself qualify an employee for a merit increase. Further, various factors, including but not limited to the economy and general business conditions may result in a compensation decrease.

An employee's failure or inability to perform assigned duties for reasons such as lack of necessary experience, education, skill, integrity, diligence or other job related factors may result in the company's decision to release an employee from employment.



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Compensation Policies – Travel and Business Expense Reimbursement



MISTAKE: “All expenses incurred for business purposes will be reimbursed by the company.”

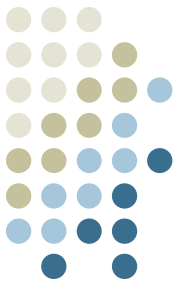
**** (NEW LAW)**: Failing to properly reimburse all expenses incurred while discharging duties is very bad!!!!

MODEL:

- Define types of expenses... materials/supplies, client entertainment
- Process for approval... in advance, particular officer, how repaid
- Limits on reimbursement... meals, alcohol, gifts, \$ amounts
- Provide a 30 day maximum period to turn in receipts



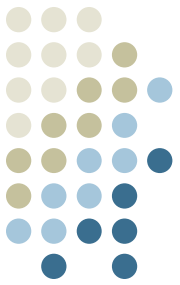
Hiring, Promotion & Termination



1. Background Checks
2. Performance Appraisals
3. Promotions and Transfers
4. Termination of Employment
5. Illinois Personnel Record Review Act
6. Reference Requests



Hiring, Promotion, & Termination – Background Checks



MISTAKE: Failing to conduct background checks consistently or have a business reason to conduct a background check in the first place.

MODEL:

All applicants (including current employees seeking promotion or transfer) for positions in the accounting department will be subject to a criminal background check. An applicant who fails to provide consent will not be considered for candidacy. Applicants whose background checks reveal adverse information will be provided the opportunity to explain/correct the information as required by applicable Federal and/or state law. The Company is an equal employment opportunity employer, and no employment decision will be based on impermissible characteristics.

NOTE: FCRA COMPLIANCE WHEN USING 3RD PARTY AGENCIES!!!



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Hiring, Promotion, & Termination – Performance Appraisals



MODEL:

Supervisors and employees are strongly encouraged to discuss job performance and goals on an informal, day-to-day basis. Generally an introductory period review will be conducted at the end of an employee's initial 60 day introductory period.

Additional formal performance evaluations will be conducted periodically, generally during the first (1st) quarter of the calendar year, to provide both you and your supervisor the opportunity to discuss job tasks, identify and correct weaknesses, encourage and recognize strengths, and discuss positive, purposeful approaches for meeting goals. Additional evaluations may be conducted as appropriate.



Hiring, Promotion, & Termination – Promotions and Transfers



MISTAKE: Promising promotion or transfer by seniority, years of service.

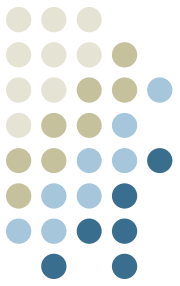
MODEL:

It is the Company's policy to provide promotion and transfer opportunities to qualified employees. This policy is designed to support employee development and career progression, and to enhance the ability of supervisors to hire candidates with proven abilities.



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Hiring, Promotion, & Termination – Termination of Employment



MISTAKES:

Promising...

progressive discipline, recall, letters of recommendation.

Threatening...

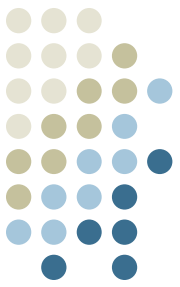
to withhold pay, commission, or unused vacation time.

Consider:

- Types of separation (discharge, resignation, retirement, layoff)
- Notice of Termination and providing a transition bonus
- Payment for unused and accrued vacation
- Exit Interview – and return of company property



Hiring, Promotion, & Termination – Illinois Personnel Record Review Act



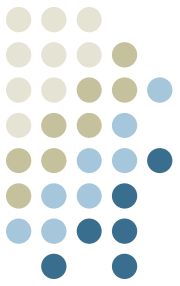
Must permit inspection of all records for determining employee's qualifications for employment, promotion, transfer, additional compensation, discharge, or other disciplinary action.

Except: letters of reference, test documents, staffing/planning, invasion of privacy, employer does not maintain records, current/pending litigation, investigation/security

MISTAKE: Comingling Personnel File with I9s, FMLA/Medical, Workers' Compensation, Investigation, Payroll/Compensation files



Hiring, Promotion, & Termination – Illinois Personnel Record Review Act



MODEL:

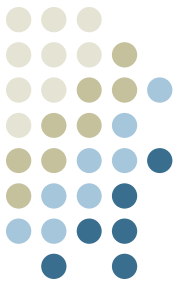
The information in your personnel file is considered confidential, not subject to reproduction or sharing with anyone but authorized individuals on a need-to-know basis, unless state or local law otherwise specifies. You may review your personnel file by scheduling an appointment during regular business hours with the HR Manager.

Employees are to refer all requests from outside the company for personnel information concerning applicants, employees and past employees to Human Resources. Human Resources will verify employment dates, position held and location of job site. Wage and salary information will be verified through written request only.



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Hiring, Promotion, & Termination – Reference Requests

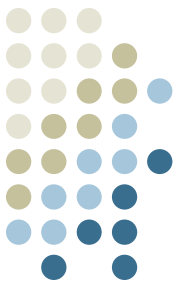


MODEL:

Providing letters of reference on behalf of the Company is not permitted. No supervisor should comment or provide written evaluation on any current or former employee; **EVEN ON A PERSONAL LEVEL.** Please refer all requests for such references to the Human Resources Department.

No employee or former employee is permitted to call or ask anyone for a reference of any kind, other than the Company's Human Resources Department.





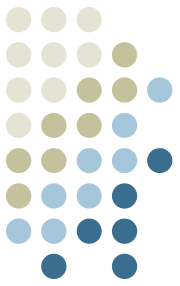
Employee Benefits

1. Health Insurance
2. Short- and Long-Term Disability Plans
3. 401(k) Plan
4. COBRA
5. Continuing Education
6. Workers' Compensation



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Employee Benefits – Health Insurance, STD/LTD, 401K, COBRA



MISTAKE: Failing to include language regarding modification, recession, and conflict of terms between Plan and Handbook

MISTAKE: Providing (overly) detailed information in Handbook

MODEL:

Certain employees are eligible for the following benefit programs on the first day of the month following a thirty (30) day waiting period which are subject to change or revocation at any time at the sole discretion of the Company:

***Benefit**

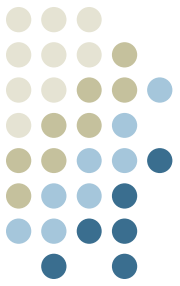
***Benefit**

Employees may refer to the appropriate plan documents for eligibility procedures and plan provisions concerning benefit programs. Naturally, it is the legal documents that must be followed in the administration of these plans, and these plan documents will govern in the event any discrepancy exists.



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Employee Benefits – Continuing Education



MISTAKE: No limits, qualification standards, repayment requirements

MODEL:

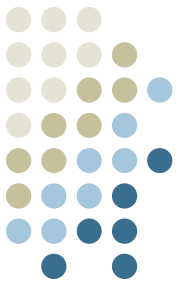
It is the Company's desire to give every reasonable encouragement to employees in their efforts to improve proficiency in their present jobs and prepare for advancement. Therefore, the Company may from time to time arrange for employees to attend courses or seminars that will improve the employee's abilities. Requests for consideration are to be made to the employee's supervisor. A formal written agreement will be required.

NOTE: Reasonable repayment obligations may be desirable and effective. However, automatic payroll deductions upon termination are likely unlawful under IL law. Be very careful with precise contract language here.



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Employee Benefits – Workers' Compensation



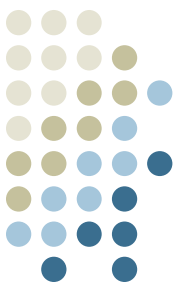
MISTAKE: Improper Requests/Demands for Medical Information

- Employees are required to immediately report workplace injuries and notify management before seeking medical treatment.
- For absences, employees are required to provide a doctor's note identifying the nature of the absence.

MODEL:

- *In case of an accident involving a personal injury, regardless of how serious, an employee should notify any member of management immediately.*
- *If an employee is absent, a statement from a physician may be required before the employee is permitted to return to work.*



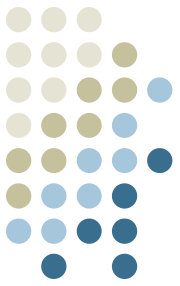


Electronic Technology

1. Workplace Monitoring
2. Email & Electronic Communication (Blogging and Text Messaging)
3. Mobile Phone & Camera Policy
4. Mobile Device & Driving
5. BIPA (fingerprint scanning)



Monitoring & Use of Electronic Tech – Workplace Monitoring



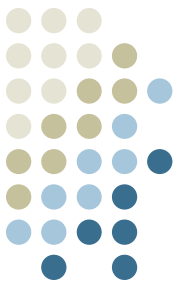
MISTAKE: Not fully addressing elements of workplace searches

MODEL:

- **Address who can be subject to:** All employees and any persons entering or leaving the premises
- **Address property able to be inspected:** Any property whether locked or unlocked, packages, bags, electronic equipment or any other possessions carried to and from the Company's premises.
- **When searches can be done:** May be conducted at any time at the discretion of the Company when reasonable grounds exist.
- **Address impact of refusal:** refusal will result in individual not being permitted to enter the premises; employees who refuse will be subject to disciplinary action up to and including discharge; may result in law enforcement being contacted.



Monitoring & Use of Electronic Tech – Email & Electronic Communication

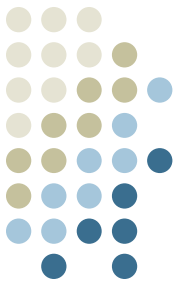


Basics:

- Who has access to Email/Electronic Communication?
- What kind of technology exists?
- How will you protect your systems?
- Unions & use of company email
- Incorporation of other policies – anti-harassment, confidentiality of trade secrets and proprietary information
- Allowing non-supervisory employees to complain about workplace terms and conditions of employment is essential



Monitoring & Use of Electronic Tech – Mobile Phone & Camera Policy



MODEL: Mobile/Cell Phone Use

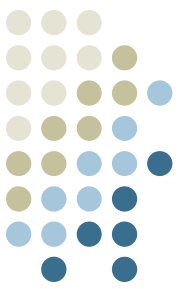
Personal use of cell phones during working time and in front of customers is not permitted unless it is an emergency (for example, when a school is trying to reach a parent about a child). All cellular phones must be stored in the break room or otherwise put away when an employee is not on break.

As technological advances continue to expand the functions of cell phones and similar personal equipment, employees are advised that any unauthorized use of such devices at work to record, take pictures or videos and/ or to transmit same may well be a violation of federal and state criminal laws and, regardless, will not be tolerated. Anyone determined to have engaged in such activity will be immediately disciplined as well as reported to the authorities.

Violations of this policy will be subject to discipline, up to and including termination.



Monitoring & Use of Electronic Tech – Mobile Phone and Portable Device Use



MISTAKE:

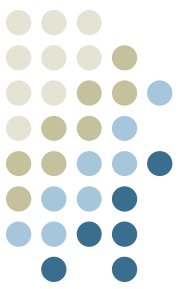
Not fully addressing:

- Safety
- Driving/tickets/penalties
- Confidentiality concerns (i.e. return of equipment used for employment purposed to management for inspection)



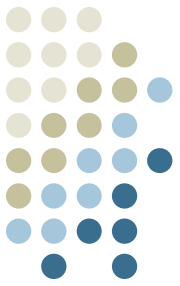
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BIPA



- IL Law is VERY bad.
- We do not recommend fingerprint time tracking systems in light of BIPA.
- But... if you are going to utilize this type of time tracking system, then you must:
 1. Have a BIPA policy (preferably separate from the HB); and
 2. Obtain written informed CONSENT before securing the “fingerprint” image (note: fingerprint is BROADLY interpreted)





Safety and Health Policies

1. Accidents
2. Smoking
3. Workplace Searches
4. Workplace Violence or Intimidation
5. Weapons
6. Visitors in the Workplace

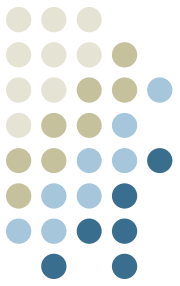


Safety and Health Policies



- 7. Use of Company Equipment and Vehicles
- 8. Drug-Free Workplace – marijuana concerns

Safety & Health – Workplace Searches



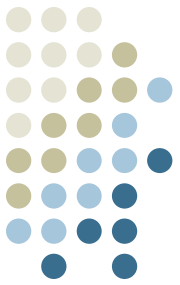
MODEL:

To 1) better protect and secure the property of our employees, our customers, and The Company, 2) help prevent the possession, sale, and use of illegal drugs on The Company's premises (in support of The Company's drug-free workplace policy), and 3) assist with and support a safe and efficient workplace free from threats, intimidation, harassment and discrimination, The Company establishes the right to question employees (and all other persons entering and leaving our premises), and to inspect any property whether locked or unlocked including packages, lockers, parcels, purses, handbags, bags, lunchboxes, electronic equipment or any other possessions or articles carried to and from The Company's premises.

Searches and inspections may be conducted at any time at the discretion of the Company when reasonable grounds exist.



Safety & Health – Workplace Searches



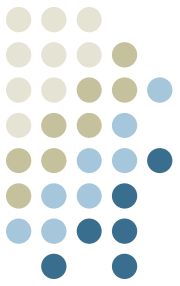
MODEL - Continued:

To this end, the Company has posted notices in our facilities informing all employees, prospective employees, customers, visitors, and all other individuals of the Company's broad workplace search policy.

Individuals entering the premises of The Company who refuse to cooperate in an inspection or search conducted under this policy will not be permitted to enter the premises of The Company. Employees who refuse to cooperate in an inspection or search, as well as employees who after the inspection or search are believed to be in possession of stolen property, illegal or unauthorized firearms or weapons, or illegal drugs, will be sent immediately to the Manager On Duty and be subjected to disciplinary action up to and including discharge (if, on investigation, they are found to be in violation of the Employer's security procedures or any other Employer rules and regulations). Additionally, The Company reserves the right to contact and/or involve law enforcement as it deems appropriate or necessary.



Safety & Health – Workplace Searches



MODEL - Continued:

Employees who unreasonably fail or refuse to promptly permit a search under this policy will be subject to discipline up to and including termination from employment.

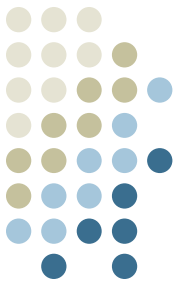
Employees should not have an expectation of privacy as to any property or articles on Employer premises, including computers, electronic equipment, etc.

Nothing stated in this policy is intended to preclude or dissuade employees from engaging in otherwise legally protected activities protected by state or federal law, including the National Labor Relations Act.



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Safety & Health – Workplace Violence or Intimidation (Bullying)



MODEL:

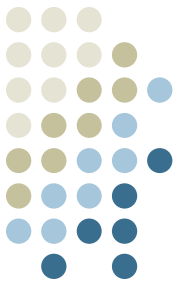
The Company also will not condone any acts or threats of violence or intimidation against its employees, customers, or visitors on the Company's premises at any time or while they are engaged in business with or on behalf of The Company, on or off the Company's premises.

In keeping with the spirit and intent of this policy, and to ensure that The Company's objectives in this regard are attained, it is the commitment of the Company:

- To provide a safe and healthful work environment, in accordance with the Company's weapons policy.
- To take prompt remedial action up to and including immediate termination, against any employee who engages in any threatening or intimidating behavior or acts of violence or who uses any obscene, abusive, or threatening gestures or language, including e-mail, graffiti, etc.



Safety & Health – Workplace Violence or Intimidation

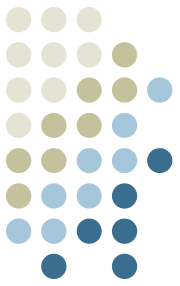


MODEL - Continued:

- To take appropriate action when dealing with customers, former employees, or visitors to the Company's facilities who engage in such behavior. Such action may include notifying the police or other law enforcement personnel and prosecuting violators of this policy to the maximum extent of the law.
- To prohibit employees, former employees, customers, and visitors from bringing unauthorized or unlawful firearms or other weapons onto the Company's premises.
- To establish viable security measures to ensure that the Company's facilities are safe and secure to the maximum extent possible and to properly handle access to Company facilities by the public, off-duty employees, and former employees.



Safety & Health – Workplace Violence or Intimidation



MODEL - Continued:

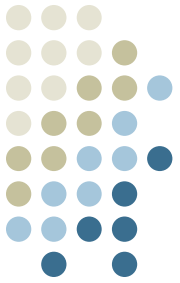
Any employee who displays a tendency to engage in violent, abusive, intimidating or threatening behavior, or who otherwise engages in behavior that The Company, in its sole discretion, deems offensive, threatening, dangerous, or inappropriate will be subject to disciplinary action, up to and including discharge.

DUTY TO WARN: Employees have a “duty to warn” their supervisors, security personnel, or the Manager on Duty of any suspicious workplace activity or situations or incidents that they observe or that they are aware of that involve other employees, former employees, customers, or visitors and that appear problematic. This includes, for example, threats or acts of violence, aggressive behavior, offensive acts, threatening or offensive comments or remarks, and the like. Employee reports made pursuant to this policy will be held in confidence to the extent possible. The Company will not condone or tolerate any form of retaliation against any employee for making a report under this policy.



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Safety & Health – Weapons / Guns



MISTAKE: Failing to consider state concealed carry laws

MODEL: To ensure that The Company maintains a workplace safe and free of violence and/or intimidation for all employees, the employer prohibits the possession or use of perilous weapons on employer property to the fullest extent allowed by law.

No employee is authorized to possess a firearm or weapon on any employer property or while engaged in employer business, except as permitted by and in strict accordance with applicable state law.

Employees are prohibited from displaying, brandishing, discharging or otherwise using any and all dangerous weapons, including firearms. Making threats, engaging in acts of violence, or bullying, especially if a dangerous weapon is involved, will not be tolerated.

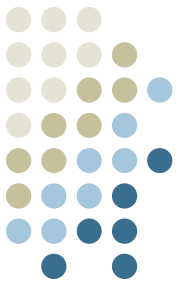
Any employee in violation of this policy will be subject to prompt disciplinary action, up to and including immediate termination.

“Employer property” is defined as {buildings, parking lots, vehicles}. **The Company does recognize Illinois’ Firearm Concealed Carry Law, and nothing contained in this policy is intended to violate that law or interfere with or infringe on any individual’s right under that law.**



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Safety & Health – Use of Company Equipment & Vehicles



MISTAKES:

- Failing to include vehicles as “company property” for search, smoking, etc.
- Not limiting employee use of company equipment and vehicles.

MODEL:

Employees are responsible for the proper use, protection and maintenance of all equipment and other property furnished or made available to them by the Company. Unauthorized or abusive use of such property is prohibited.

Certain employees will be issued keys during their employment to enable them to carry out their job duties. These keys remain the property of The Company. They may not be duplicated or shared. A lost key must be reported to management immediately.

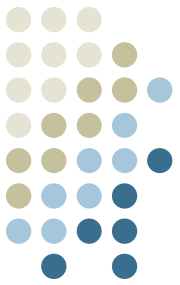
All equipment, keys and other property of the Company must be returned on the last day of employment, or sooner, if requested.

Violation of this provision may result in disciplinary action up to and including termination.



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Safety & Health – Drug Free Workplace / Zero Tolerance



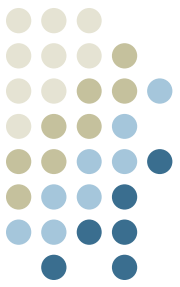
MISTAKES:

- Failing to define “impairment” or “under the influence”
- Failing to consider medical cannabis.
- Failing to address testing triggers and type of testing used
- Failing to define “accident” or “incident”

NOTE: Post accident or incident testing --- per OSHA, it is NOT automatic --- DO NOT TEST SIMPLY FOR GETTING HURT. Rather, test anyone who may have caused the accident or incident.



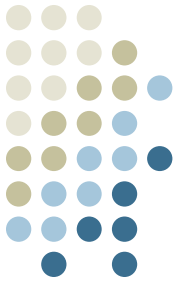
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Company Confidentiality

1. Confidential Information
 - ❖ Confidentiality Policy
 - ❖ Confidentiality Agreement
2. Business Ethics and Conduct

Company Confidentiality – Confidential Information



MODEL:

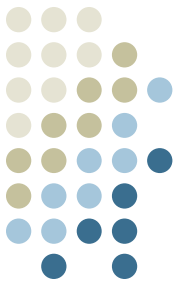
Any information concerning the business affairs of the Company, its suppliers, customers, employees or personnel associated with the Company, is confidential and restricted. Employees may not reveal any information except under the direction of their supervisor or with the supervisor's approval. Questions concerning this policy, including what constitutes confidential information, should be referred to the employee's supervisor.

Further, the Company expects that any knowledge, techniques, written materials and other information relative to the Company's business developed during employment remain the property of the Company.

Violation of this provision may result in disciplinary action up to and including discharge. BUT... nothing in this policy prohibits non-supervisory employees from discussing workplace terms and conditions of employment.

NOTE: A SEPARATE NDA or CONFIDENTIALITY AGREEMENT PROTECTING TRADE SECRETS, IP and DEVELOPMENTS should be implemented apart from the HB. THE FEDERAL TRADE SECRETS LAW HAS SPECIAL LANGUAGE TO INCLUDE IN AGREEMENTS.

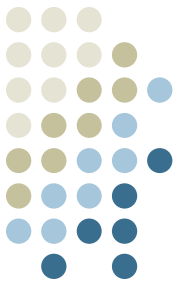
Complaint Procedures & Anti-Retaliation Provisions



1. Employee Suggestions
2. Internal Procedures
 - ❖ Internal Complaint Policy
 - ❖ Grievance Procedures
3. Waiver of Jury Trials, Class Actions – Arbitration Agreements



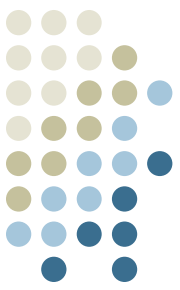
MISTAKE: Ineffective Complaint and Reporting Mechanisms



- **EXAMPLE:**
 - **Being too rigid...**
 - Only accepting and investigating written complaints;
 - Demanding too much information; or
 - Halting or suspending investigations because someone is not cooperating.
 - **Being too Specific or too General as to who to report the Complaint to...**
 - Requiring chain of command, with no exception
- **MODEL:** *Employees who wish to register a complaint of [i.e. discrimination, harassment, wage issues, bullying, etc...] may do so through the Human Resources Department **[indicate specific individual – by title, location and contact information]** or their supervisor or any appropriate member of management.*



Complaint Procedures & Anti-Retaliation Provisions – Employee Suggestions



MISTAKE: Not having an “open door” policy

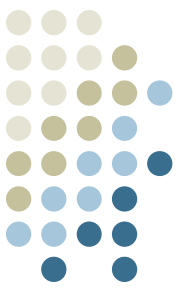
MODEL:

The Company maintains an Open Door Policy that encourages employees to bring to the attention of company management any ideas, suggestions, recommendations, concerns or other issues that they feel are important to improve the company and its services. We realize that we do not have all the answers and that in any organization there is always room for improvement. We are committed to listening and responding to our employees’ ideas and suggestions for making improvements in our operations.



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Complaint Procedures & Anti-Retaliation Provisions – Internal Procedures



MISTAKE: Failing to Include Good Faith Procedures to Curb Unlawful Pay Practices

MODEL: Being able to show that you have acted in Good Faith with respect to pay practices can pay dividends if you are facing an audit or lawsuit.

Showing good faith effort can be done through:

- Policies that clearly address overtime work, meals and rest breaks, travel time, and payroll integrity (i.e. falsifying time records and working off the clock);
- Written Complaint policy and mechanism through which employees can bring issues related to overtime, meal and rest breaks, pay policies, deductions and/or classification; and
- Conducting routine audits of position classifications.



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Sample – Complaint Procedure for Payroll Issues



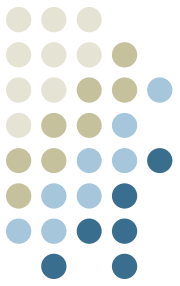
[Complaint]

Any employee who believes there has been a mistake in their pay, including actual hours worked and compensated, or that their pay has been improperly reduced should contact [specific person or department] immediately to request an investigation. Falsification of hours or failure to accurately report tips received in accordance with this policy will result in disciplinary action up to and including termination.

The employee will be asked to specify in writing, using the guidance above, the circumstances of the pay deduction and whether it has occurred on other occasions.



Sample – Complaint Procedure for Payroll Issues (cont'd)



[Investigation]

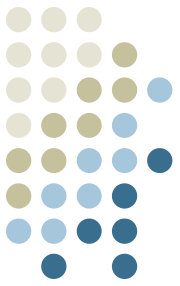
The Company will review pay records and interview the supervisor or manager, as well as the payroll representatives handling the employee's pay, to determine if the allegation is correct.

If the deduction was in fact improper, the company will reimburse the employee as promptly as possible (but in no case longer than two pay periods from the identification of the problem).

The individual(s) responsible for the error will be investigated further to determine if this was an isolated incident or a pattern of conduct that requires further action on the part of the company.



Sample – Complaint Procedure for Payroll Issues (cont'd)



[Resolution]

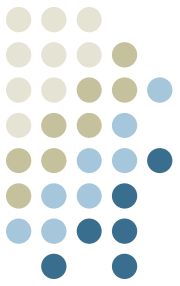
If warranted, the responsible person(s) will be held accountable for the error(s) made consistent with the company's disciplinary policy.

The resolution of the situation will be documented (including confirmation on the part of the employee that the situation has been resolved) and placed with the employee's pay records.

Following the identification of such a problem, the Company will establish a practice to regularly audit employee pay records to ensure no further issues arise.



MISTAKE: Guaranteeing Employee Privacy/Confidentiality in Investigations



EXAMPLE:

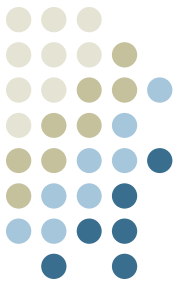
- “Investigations will be conducted on a confidential basis.”
- “Complaints will be maintained in strictest confidence.”

MODEL:

- ***“All allegations of harassment will be investigated thoroughly. The facts will determine the response of the Company to each allegation. Substantiated acts of harassment will be met with appropriate disciplinary action by the Company up to and including termination. All information regarding any specific incident will be kept confidential within the necessary boundaries of the fact-finding process. No reprisal or retaliation against the employee reporting the allegation of harassment will be tolerated.”***



Complaint Procedures & Anti-Retaliation Provisions – Arbitration

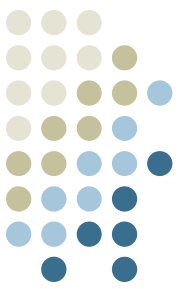


MODEL:

- Scope – All employment-related disputes, if not – what?
- Venue & Forum – Location, waive right to judicial forum and class arbitration waiver?
- Selection of Arbitrator --- AAA? FMCS?
- Arbitration Procedure – What rules will you use?
- Jurisdiction – Does arbitrator determine own authority?
- Binding Decision?
- Discovery Rules?
- Award – Written? Attorney fees and costs?
- Arbitrator's Compensation – rate determined by arbitrator --- but costs and charges of Arbitrator is commonly required to be paid by Employer (AAA requires this)
- Separate agreement, signed --- **DO NOT INCLUDE IN A HB!!!!**



Complaint Procedures & Anti-Retaliation Provisions – Waiver of Jury Trials



MISTAKES:

- Failing to have a separate agreement, signed.

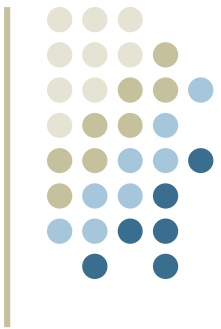
MODEL:

- Any disputes regarding an employee's employment or separation from employment shall be tried before a court of competent jurisdiction in Cook County, Illinois. Such disputes shall be heard before a judge as both employee and the Company waive their right to a trial by jury.
- This is NOT part of a HB, but rather part of a separate employment agreement.
- ON 1-1-20, SPECIAL LANGUAGE MUST BE INSERTED TO COMPLY WITH NEW IL WORKPLACE TRANSPARANCY LAW



Q&A

- Questions....



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Thank you!



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