



LIEBERT CASSIDY WHITMORE

# Top Employment & Personnel Policies for Nonprofit Employers – Live Q&A

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# Agenda

Topics covered will include:

- Foundational Legal & Compliance Policies
- Sector Specific Nonprofit Policies
- Modern Operational & Digital Policies
- Compensation & Leave Benefits

# Why Audit Handbooks?

- Why are employee handbooks important?
  - Reflect the organization's philosophy and culture
  - Convey expectations for employee conduct
  - Helps the organization comply with legal obligations to provide employees with notice of specified rights, responsibilities, and benefits

# Why Audit Handbooks? Cont'd

- Why audit/update handbooks?
  - Internal and external changes
    - Fiscal
    - Staffing
    - Leadership
    - New laws or regulations

# Steps for Auditing Handbooks

- Step 1: Identify Your Organization's Goals
- Step 2: Conduct a Topic-by-Topic Audit
- Step 3: Review the Final Changes
- Step 4: Implement the Final Changes

# Essential Policies for Employee Handbooks

- Individualized determination
  - Some policies are required by law, such as a harassment prevention policy
  - Others are essential for all employers, like a meal and rest break policy
  - And many will depend on your unique organizational operations

# Essential Policies – Beginning of Handbook

- At-Will Employment
  - Statement affirming that all employees are at-will unless otherwise set forth in an employment contract signed by the employee and CEO/Executive Director
- Right to Revise
  - Statement that the organization has the right to revise the Handbook at any time

# Essential Policies – Harassment, Discrimination, and Retaliation Prevention Policy

- Prohibits both employees and non-employees from engaging in discrimination, harassment and retaliation based on any protected status (all must be listed)
- Protects applicants, independent contractors, and employees
- Lists examples of prohibited conduct
- Cannot require written complaint
- Require supervisors to promptly report
- Provide a thorough, prompt, objective and non-judgmental investigation procedure
- Provide confidentiality to the greatest extent possible
- Provide timely closure
- Appropriate remedial or corrective action if harassment occurred
- Related policies may include equal employment opportunity and reasonable accommodation for religious beliefs, disability, pregnancy, and lactation, depending on applicable law

# Essential Policies – Employee Conduct Policies

- Code of Conduct
  - Non-exhaustive list of prohibited conduct that could lead to disciplinary action
  - Includes language that policy does not change at-will status
  - **Avoid/Don't Adopt Progressive Discipline Policies**

# Other Essential Conduct Policies

- Off Duty Conduct
  - Statement that certain types of off-duty conduct may not be allowable
- Dress Code
  - Should be gender neutral/inclusive
- Attendance Policy
  - Must be consistent with applicable paid sick leave requirements
- Remote Work
  - Sets expectations for how employees working remotely should conduct themselves and clarifies that remote work is a privilege not a right
- Drug & Alcohol Policy
  - Should be updated to comply with applicable law
- Relationships in the Workplace

# More Employee Conduct Policies

- Confidential Information
  - Defines what information employees must keep confidential
- Conflicts of Interest
  - Prohibits outside employment and other activities that conflict with job duties
  - Often include provisions on accepting gifts, that places limits on the value of gifts employees can accept from vendors, clients, etc.
- Whistleblower
  - Prohibits retaliation for reporting of suspected violations of law or policy

# Essential Policies – Technology and Use of Property/Facilities

- Electronic Communications Resources
  - Should cover both on and off duty conduct
  - Must clarify no expectation of privacy in use of organization's electronic communications resources
  - Statement that all conduct rules apply to technology use and specify rules of use
- Social Media
  - Should cover use of personal and organization devices, and on and off duty conduct
- Use of organization Property
  - Specify organization's right to search its property, no reasonable expectation of privacy, and prohibit removal from site without authorization
  - Return of property upon separation of employment

# ADA Title III and Title II

- Nonprofits are generally governed by Title III as places of public accommodation
- When a nonprofit accepts government funding (grants, sub-awards, or public contracts), Title II rules can apply
- The nonprofit may have to meet strict public-sector accessibility baselines as a condition of keeping the grant
  - DOJ Title II Final Rule requires WCAG 2.1 Level AA
  - No comparable Title III technical rule currently exists
  - Title III-covered nonprofits must still provide accessible online goods and services

# Natural Disaster and Emergency Policies

- Do you have a natural disaster and emergency readiness policy?
- What are your explicit protocols for staff safety and service continuity during a crisis?
- Are critical donor, client, and financial data securely backed up?

# Modern Operational & Digital Policies – Artificial Intelligence

- Use AI to supplement, not replace, employee judgment
- Review and verify all AI-generated content
- Protect confidential and personally identifiable information
- Require human oversight for high-stakes decisions and prohibit AI use in hiring and performance reviews
- Train employees and volunteers and update the policy as AI evolves

# Essential Policies – Leaves of Absence

- Family and Medical Leave (FMLA)
- Pregnancy and Parental Leave
- Paid Sick Leave
- Jury Duty/Witness Leave
- Time off for Voting
- Bereavement Leave
- Military Leave
- State and Local Leave Policies
- Reproductive loss
- Victims of violence
- Other required leaves
- **And more!**

# Essential Policies – Benefits

- Holidays; vacation
  - Not required by law, but if you have these, you need a policy.
- Benefits
  - Health and retirement
  - Professional development
  - PFL/SDI
  - Other

# Essential Policies – Wage and Hour Policies

- Employee Classifications
  - Avoid the terms “probationary” and “regular” or “salaried” and “hourly”
  - Define classifications, including full-time employee, part-time employee, seasonal and temporary
- Essential
  - Overtime
  - Meal Periods
  - Rest Breaks
  - Timekeeping Policy that prohibits off the clock work
- Other related and recommended policies
  - Define workweek/workday and business hours
  - Identify regular paydays and payroll periods
  - Travel time
  - Policy on pay day advances
  - Expense Reimbursements

# Don't Forget the Acknowledgment

- Acknowledgement and signatures
  - All employees should sign
  - Retain in personnel file
  - Sign again when handbook is updated
- May need additional acknowledgements:
  - Mandated reporting

# Thank You!

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