

NYS TUG HILL COMMISSION

Employee Handbooks...The Case for Sound Policy Development

Presented By:

Ronni M. Travers, SPHR, President
Public Sector HR Consultants LLC
(518) 399-4512
rtravers@publicsectorhr.org

Why Have an Employee Handbook?

- Compliance with Government Regulations
- Communication with Employees
- Provides Guidance for Elected Officials, Department Heads and Supervisors
- Consistent Application of Work Rules
- Defense in Legal and/or Administrative Proceedings

What to Include...

First, consider the following:

- Any recurring personnel issues or problems
- Any memos, resolutions or other written information regarding policies
- HR Best Practices

Typical Table of Contents

- Introduction
- Employee Classifications
- Civil Service System
- Employment Matters
- Operational Policies
- Absence Policies
- Compensation
- Employee Benefits
- Compliance Policies
- Workplace Safety
- Communication Procedures
- Dispute Resolution

INTRODUCTION

- Welcome Message
- Message from the Union (if applicable)
- Purpose of the Handbook
 - Communicate Personnel Policies and Procedures
 - Employee Handbook is Not a Contract of Employment

INTRODUCTION (Cont.)

● Union Disclaimer (if applicable)

- If a Union Contract provision conflicts with any provision of the Employee Handbook, then the Union Contract provision will control

● Changes or Modifications

- Rights of the Board to interpret, change, modify or eliminate any Handbook provision

EMPLOYEE CLASSIFICATIONS

- Full-time Employees
- Part-time Employees
- Temporary Employees
- Seasonal Employees
- FLSA Exempt Employees
- FLSA Non-exempt Employees

CIVIL SERVICE SYSTEM

● Classified Service

- Exempt
- Competitive
- Non-Competitive
- Labor

● Types of Civil Service Appointments

- Permanent
- Provisional
- Temporary

EMPLOYMENT MATTERS

● Procedures for Filling Vacancies

- Statement of compliance with all applicable federal, state and local laws
- Advertisement / Posting of Vacancies
- Employment Applications
 - Consequences for misrepresentations, falsifications or material omissions
- Reference and Background Checks

EMPLOYMENT MATTERS

● Hiring of Relatives

- Avoid Conflicts of Interests or Perceived Conflicts of Interest
- Restrict hiring relatives that have a supervisor / subordinate relationship

EMPLOYMENT MATTERS (Cont.)

- Oath of Office
- New Employee Orientation
- Probationary Period
 - Purpose of Probationary Period
 - Length of Probationary Period (minimum and maximum)
 - Failure to successfully complete probationary period
- Performance Appraisals

EMPLOYMENT MATTERS (Cont.)

● Corrective Action and Discipline

- Verbal Communication
- Written Counseling Memos
- Formal Disciplinary Procedures
 - Union Contract
 - Civil Service Law Section 75
- Don't use terminology such as “just cause” or “good cause” when describing the basis for terminations
- Workplace Investigations

EMPLOYMENT MATTERS (Cont.)

● Prohibited Conduct

- Provide a comprehensive list of prohibited conduct such as:
 - Acts of insubordination
 - Falsification of time records
 - Excessive tardiness or absences
- State that this list is illustrative only and does not limit the employer's right to impose discipline in other appropriate cases

EMPLOYMENT MATTERS (Cont.)

● Code of Ethics

- Recommend that the Code of Ethics be either referenced or published in the Handbook
- Standards of Conduct
 - Gifts
 - Private Employment
 - Confidential Information
 - Future Employment
- Penalties for Offenses

EMPLOYMENT MATTERS (Cont.)

● Personnel Records

- Content – List types of personnel records maintained
- Location of Personnel Files
 - General personnel records
 - I-9 Forms
 - Medical Records
 - Substance Testing Records
- Identify who has access to Personnel Files

EMPLOYMENT MATTERS (Cont.)

● Separation from Employment

■ Notice of Resignation

- Must be in writing
- Advance Notice

■ Exit Interviews and Procedures

● Discuss Eligible Benefits

- Accumulated Paid Vacation Leave
- Date Health Insurance Ends / COBRA

● Change Passwords

- Return of property (uniforms, ID badges, keys, tools, credit cards, etc.)

OPERATIONAL POLICIES

● Departmental Hours

- Normal Hours of Operation
- Compressed Workweek
- Flex-Time or Flexible Schedules
- Arriving to Work Early or Leaving after Scheduled Work Hours for Employee's Own Convenience

OPERATIONAL POLICIES (Cont.)

● Meal Periods

- Paid or Unpaid
- NYS Labor Law Requirements
- Scheduling of Meal Breaks

● Rest Breaks

- Must be paid
- Rest Breaks must be taken at the worksite

OPERATIONAL POLICIES (Cont.)

● Breaks for Nursing Mothers

- Law requires nursing mothers be allowed reasonable breaks (20 – 30 min.) to express milk
- Specify if break is paid or unpaid
- Must make reasonable effort to provide a room that is clean and private (other than a bathroom)
- Employee must give advance notice of need for this room prior to returning to work

OPERATIONAL POLICIES (Cont.)

● Emergency Situations

- Closing Procedures – who makes the call?
- Payment of Wages
 - During Work
 - Prior to Reporting to Work
 - Employees already on a scheduled vacation or other paid leave

OPERATIONAL POLICIES (Cont.)

● Time Records

- Specify the requirements for all employee classifications (FLSA Exempt and FLSA Non-Exempt) to record time worked and paid leave taken
- Methods for recording time (electronic, punch time-clock, time-sheet)
- Require that employees complete and sign their own time record
- Falsification of Time Records

OPERATIONAL POLICIES (Cont.)

● Vehicle Usage

- Emphasize that vehicles and equipment must remain under the control of the Department Head
- Restrict Personal Use including transporting family members
- Accident Reporting Procedures
- Prohibition against texting while driving
- Prohibit non-job-related bumper stickers, political advertisements, etc.

OPERATIONAL POLICIES (Cont.)

● Driver's License / Insurance Requirements

- Must maintain job required driver's license throughout employment
- Notification of Loss of Driver's License
- Recommend use of LENS Program
- Insurability Standards
 - State in policy that certain Motor Vehicle Convictions (DWI, Reckless Driving, etc.) will result in employees not being allowed to drive a municipal vehicle

OPERATIONAL POLICIES (Cont.)

● Supplies, Equipment and Fuel Usage

- Prohibit personal use of supplies, equipment and fuel
- Are employees allowed to use Garage facilities for their own vehicles

● Cell Phone Usage Policy

- Guidelines for personal use of employer issued cell phones
- Restrict employees' use of their own cell phone during work hours

OPERATIONAL POLICIES (Cont.)

● Computer Systems and Equipment

- Policy should clearly state the following:
 - Computer systems, media devices and data files are the property of the employer
 - Employer reserve right to enter, search, and monitor computer systems and other electronic devices with or without advance notice
 - There is no guarantee or expectation of privacy

Computer Systems & Equipment (Cont.)

● Guidelines for e-mail and text messages

- Messages must not be threatening, obscene, derogatory or include content that constitutes a violation of the employer's workplace harassment or workplace violence policy
- Messages must not involve personal sales or solicitation or be associated with any for-profit outside business activity

Computer Systems & Equipment (Cont.)

● Prohibited Uses (illustrative list)

- Any illegal activity
- Threats, harassment, slander or defamation
- Transmitting, viewing, or storage of obscene or suggestive messages or images
- Accessing, destroying or editing the data/files of another person, unless authorized

Prohibited Uses (cont.)

- Gambling
- Use of entertainment software or internet sites, such as games and puzzles
- Installation or use of any hardware or software, not authorized by the employer
- Unauthorized use of another person's password

Social Media Policy

Policy Statement (Sample):

The purpose of the policy is to provide the framework for employee usage of Social Media, both inside and outside of the workplace. Social Media in general refers to internet-based applications that allow for the creation and exchange of user generated content. Examples of Social Media include, but are not limited to, Facebook, Twitter, Instagram, Snapchat, and YouTube.

Determine the Following:

- Personal Use of Social Media During Working Hours – both from employer devices and employee's personal devices
- Personal Usage During Meal and Rest Breaks

Prohibited Uses - Social Media

- Disclosing confidential or proprietary information pertaining to matters of the employer that is not accessible to the public under FOIL
- Matters that will imperil the public safety if disclosed
- Promoting or endorsing any illegal activities
- Threatening, promoting, or endorsing violence

Prohibited Uses (Cont.)

- Directing comments, or sharing images that are discriminatory or insensitive to any individual or group based on race, religion, gender, disability, sexual orientation, national origin, or any other protected class
- Use of the employer's name, logo, seal, badges, uniforms, etc. in social media posts
- Posting one's photograph while wearing the employer's uniform

Prohibited Uses (Cont.)

- Using employer's e-mail address to register for or respond to social media sites
- Knowingly or recklessly posting false information about the employer, supervisors, coworkers, public officials or services provided
- Representing that an opinion or statement is the policy or view of the employer when such is not the case

Reporting of Violations

- Identify the individual(s) or department where an employee can report a potential policy violation
- Who will determine if an investigation is warranted
- Disciplinary Action, up to and including termination of employment, for policy violations

OPERATIONAL POLICIES (Cont.)

● Personal Appearance / Dress Code

- Outline standards for acceptable clothing and hygiene
- Safety Clothing and Equipment
- Requirement to wear Uniforms or Department Specific clothing (i.e. Recreation Dept. Tee Shirts)

OPERATIONAL POLICIES (Cont.)

● Outside Employment

- Employees' outside employment cannot constitute a conflict of interest
- Employees' outside employment should not interfere with their job performance
- Employee shall not use the employer's equipment or supplies for any outside work

OPERATIONAL POLICIES (Cont.)

● Unauthorized Work

- Policy should prohibit employees from performing work for other entities during working hours

ABSENCE POLICIES

● Tardiness

- An employee must be ready to work at the time the employee is scheduled to begin work

● Notification of Absence

- Outline procedures employees must follow if they will be absent from work

ABSENCE POLICIES (Cont.)

● Military Leave (NYS Law)

- Pertains to Military Reserve and National Guard
- Paid leave for up to 22 workdays or 30 calendar days (whichever is greater) in a calendar year

● Leave for Military Spouses (NYS Law)

- 20 or more employees
- An employee whose spouse is on a leave from deployment
- Unpaid leave up to 10 days

ABSENCE POLICIES (Cont.)

● Leave for Cancer Screening

- NYS Civil Service Law Section 159-b
- Annual Allowance
 - 4 hours of paid leave
 - Does not accumulate
- Documentation required

ABSENCE POLICIES (Cont.)

- Unpaid Leave for Bone Marrow Donation and/or Blood Donations (NYS Labor Law Sections 202-a and 202-j)
 - Up to 3 hours per year
- Jury Duty Leave
 - Paid Time Off
 - Employee must notify Commissioner of Jurors that they are being paid

ABSENCE POLICIES (Cont.)

● Bereavement Leave

- Determine eligibility requirements
- Define “Immediate Family Members”

● Volunteer Firefighters / Emergency Responders

- Paid or Unpaid Time Off to respond to calls
- Document on time sheets

● Time Off to Vote

ABSENCE POLICIES (Cont.)

- Family and Medical Leave Act (50 or more employees)
 - Maximum of 12 workweeks (60 workdays) of job-protected leave for certain family and medical reasons during a 12-month period
 - Eligibility Requirements
 - Worked for at least 12 months
 - Worked at least 1,250 hours
 - Determine the 12-month period

ABSENCE POLICIES (Cont.)

● Types of Leave

- Birth of a child and to care for child
- Placement of a child for adoption or foster care
- Employee's own serious health condition
- Serious health condition of employee's spouse, child or parent
- Qualifying Military Emergency Leave
- Military Caregiver Leave (26 weeks)

ABSENCE POLICIES (Cont.)

- Notification Requirements
- Return to Work Clearance
- Benefits during FMLA
 - Use of Accrued Paid Leave
 - Medical Insurance
- Reference CSL Sections 71, 72 and 73 in policy

EMPLOYEE BENEFITS

- Health, Dental and Optical Insurance
 - Eligibility Requirements
 - When coverage begins and ends
 - Premium Payments (pre-tax)
 - Changes in Insurance Premiums
- Medical Insurance Buy-out
- Medical Insurance for Retirees
- COBRA / NYS Continuation of Coverage
 - 36 months for all Qualifying Events

EMPLOYEE BENEFITS (Cont.)

● Holidays

- Eligibility
- Holiday Pay Requirement

● Vacation

- Eligibility
- Allowance
- Accumulation / Carry-over
- Separation of Employment

EMPLOYEE BENEFITS (Cont.)

● Sick Leave

- Eligibility
- Allowance
- Accumulation / Carry-over
- Proper Use of Sick Leave
- Family Sick Leave
- Abuse of Sick Leave
- Separation of Employment
 - Retirement – Option 41j

EMPLOYEE BENEFITS (Cont.)

● Personal Leave

- Eligibility
- Allowance
- Accumulation / Carry-over
- Proper Use of Personal Leave

EMPLOYEE BENEFITS (Cont.)

● Other Employee Benefits

- NYS Retirement System
- Life Insurance
- Short-Term Disability
- Education Assistance
- Employee Assistance Program

COMPLIANCE POLICIES

- Non-Discrimination and Harassment (including Sexual Harassment) in the Workplace
- Reproductive Health Decision Making
 - (NYS Labor Law Section 203-e)
- Violence in the Workplace
 - Prohibited Conduct
 - Reporting Requirements
 - Prohibition Against Retaliation

COMPLIANCE POLICIES (Cont.)

- Drug-Free Workplace Act / Drug-Free Awareness Program
 - Compliance with Federal Drug-Free Workplace Act
 - Prohibited Conduct
 - Use of Prescription and Over-the-Counter Drugs
 - Employee Assistance

● Drug and Alcohol Testing (CDL)

- Statement of Compliance with Omnibus Transportation Employee Testing Act (OTETA)
- Covered Employees
- Acknowledgement Form

● Drug and Alcohol Testing (Non-CDL)

- Covered Employees
- Acknowledgement Form

WORKPLACE SAFETY

- Safety Program
- Employee Responsibility
- Accident Plan and Reporting Procedures
- Hazard Communication Program
- Safety Data Sheets
- Employee Training
- Personal Protective Equipment

COMMUNICATION PROCEDURES

- Organizational Communications
- Media Relations and Press Policy
- Reporting of Improper Activities
- Adverse Communications
- Employee Suggestions

Implementation of Handbook

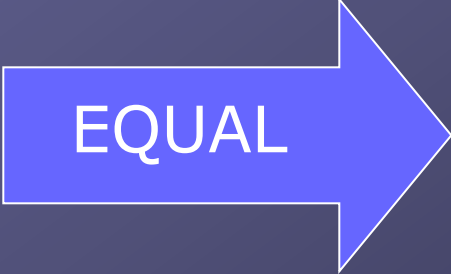
1. Distribute to All employees with Signed Handbook Acknowledgement
2. New Employee Orientation
3. Place in Binder so that updates can be easily inserted
4. Send out electronically to employees who have employer email access
5. Review policies on a regular basis to ensure compliance with applicable laws

In summary ...

CLEARLY
WRITTEN
POLICIES

+

REGULAR
REVIEW



EQUAL

EFFECTIVE
EMPLOYEE
RELATIONS TOOL

+

GOOD DEFENSE
AGAINST EMPLOYEE
CLAIMS OR
LAWSUITS

Q and A