

Handbook Revisions

2005 Revisions

In 2005, we made over 22 separate handbook changes.

- ⚙ **Employee Friendly.** We changed the layout and syntax of the handbook to be more employee friendly.
- ⚙ **Harassment.** This is a constantly evolving area of concern for employers. The Harassment provision was revised to address four recent areas of federal enforcement, religious harassment, same-sex harassment, pregnancy harassment and military status harassment. In addition, provisions were added documenting your commitment to investigate claims of harassment and requiring your employees to cooperate with any investigation.
- ⚙ **Breaks.** We revised provisions on breaks to make clear that breaks are required. This revision and a prior revision obligating employees to report anyone preventing them from taking breaks are defenses to a wage and hour claim such as those recently asserted against local employers. A common provision requiring employees to “clock out” for breaks prove to be unworkable for many employers. The Recording Time provision was changed to eliminate this requirement.
- ⚙ **Discipline.** We changed all references to “discipline” to “corrective action” to reinforce your vital employment at-will status.
- ⚙ **Safety.** We added provisions on Blood & Bodily Fluid Exposure, Licensed Equipment Operators, Injury or Illness, Workers Compensation and Hazardous & Toxic Materials to help you manage workplace safety.
- ⚙ **Attendance.** We revised attendance provisions as part of the continuing efforts to help you manage attendance by your employees.
- ⚙ **Drugs & Alcohol.** We rewrote the Drug & Alcohol Policy to prevent problems like those recently experienced by local employers.
- ⚙ **Medical Marijuana.** We revised the Drug & Alcohol Policy to require any employee participating in Oregon’s Medical Marijuana program to provide you with notice of their participation. This advance notice will allow you to ensure the safety of the employee and those who come in contact with the employee. If the employee violates your rules or if the employee does not give notice of participation and later fails a drug test, you have the flexibility to take corrective action, including termination. In addition, the policy requires that the employee not be under the influence at work and gives you the flexibility you need if the employee’s marijuana use creates a safety hazard or other business concerns.
- ⚙ **Housekeeping.** We added a provision to make clear that each employee is responsible for keeping your facilities clean.
- ⚙ **Confidential Information.** We expanded the Confidential Information provision to help protect your confidential information and the confidential information of your customers and suppliers.
- ⚙ **Outside Employment.** We added a provision requiring your approval of any outside employment by an employee. This gives you an opportunity to prevent the outside employment if it adversely impacts the employees’ effectiveness for you.
- ⚙ **Terminated Employees.** We added provisions on return of your property and exit interviews for terminated employees.
- ⚙ **Vacations.** This year, a client had a unique, compelling, legitimate reason for canceling an employee’s previously scheduled vacation. Although these situations are rare, all employers

need the flexibility to reschedule approved vacations when business needs require. We revised the Vacations provision to give you this flexibility.

- ⚙️ **Temporary Modified Duty.** Changes were made to give you flexibility on how to account for wages for employees on temporary modified duty.
- ⚙️ **Consensual Relationships.** Employers are at risk for harassment and discrimination claims when workplace romance turns sour. An increasing number of employers are trying to protect themselves with written agreements between the romantic parties and the employer. This approach seems intrusive and unworkable. The problem however is real. To address this problem, we created what may well be a first in the country policy on consensual relationships.
- ⚙️ **Camera Phones.** Another area of harassment concern has been camera phones. Employees across the country have used camera phones to take unauthorized photos of coworkers and shared those photos with others. In other instances, camera phones can be used to steal employers' confidential information and trade secrets. We added a provision to prohibit camera phones in your workplace unless you specifically approve use of the phones on a case-by-case basis.
- ⚙️ **Internet Use History.** The Internet is yet another area of harassment and trade secret concern. We added a provision that prohibits employees from deleting web browser history files or otherwise taking steps to conceal their Internet use while using business computers on business time.
- ⚙️ **Virus Protection.** Another Internet threat are computer viruses. We added a provision that makes each employee using a computer responsible to make sure their computer has up-to-date virus protection and that they do not disable the protection.
- ⚙️ **Personal Use of Computers.** The biggest Internet problem most employers face, however, is personal use of computers and the Internet access when employees should be working. Believe it or not, this can even include extensive Internet day trading. We drafted a policy limiting personal Internet use and letting your employees know that your computer and Internet system may not have the proper security for personal financial transactions.
- ⚙️ **Electronic Record Subpoenas.** We added a provision where you notify your employees that in the event of a subpoena, you will provide electronic records of their Internet and computer use. This notice was added in response to a particular provision of the Patriot Act. Whether you agree with the Patriot Act or not, it is good for you to give your employees notice that their Internet and computer use may be subject to subpoena.
- ⚙️ **COBRA Notice.** For many years we have included the COBRA Notice on continuation of healthcare benefits you must give to departing employees. As federal rules and regulations change and get more complex, what started as a backup notice has become increasingly cumbersome. For that reason, we deleted this provision.
- ⚙️ **Employment Notices.** State and federal laws require that you post certain notices in a place where all employees can see. Sometimes notices get lost and aren't replaced. As a backup, we added the required employment posters to your handbook. As far as we know, no one else in the country has thought of this simple, common sense approach. You need to continue to display the correct posters as required by law but, in the event of problems, you might be able to argue that this handbook addition protects you.

2006 Revisions

For the 2006 Handbook, we made over 27 separate changes throughout the handbook, rewrote the handbook receipt and added a new *At-Will Agreement* to the handbook receipt. This *At-Will Agreement* may be a huge benefit for your organization.

- ⚙️ **Wage & Hour.** Often times, employees are as frustrated with the rigid state and federal wage and hour laws as employers. Employees that use the time to smoke a cigarette may want more time, or smokers may want to divide their 10-minute break into two separate 5-minute breaks. The law is not that flexible. Other employees may want to work through their breaks and leave early. This is not permissible either. Changes were made to the *Breaks and Meal Periods* provision to address these and other problems reported by employers this past year.
- ⚙️ **Paycheck Deductions.** The new federal regulations governing which employees are exempt from overtime requirements include a “safe harbor” for employers who inadvertently make improper deductions from an exempt (salaried) employee’s paycheck. Revisions were made to the *Paycheck Deductions* provision and a new provision on *Improper Deductions* was added to take advantage of this change in federal law. Information for your employees on the type of deductions that may be made is also included.
- ⚙️ **Direct Deposit.** More employees are becoming interested in direct deposit of their paychecks. Employers are finding that direct deposit can be easier than distributing paychecks. A *Direct Deposit* provision has been added. If you are not yet ready to offer this service, we can delete this provision.
- ⚙️ **Military Leave.** With the increased deployments of Guard and Reserve units, employer’s obligations to employees returning from leave for military service have come under greater scrutiny. You can, however, provide that if the employee is separated from the armed forces under other than honorable conditions, his or her reinstatement rights terminate. This change was made to the *Military Leave* provision.
- ⚙️ **Drug & Alcohol Policy.** The 2003 Oregon legislature adopted a statute providing that employees that are terminated for violation of drug and alcohol policies are not entitled to unemployment insurance benefits. Employers have complained, however, that the Employment Division has failed to follow this statute. The Employment Division has just released new regulations interpreting that statute. Changes were made to the *Drug & Alcohol Policy* to use the same terminology as and to be consistent with the new regulations. In addition, a provision was also added requiring any employee that drives for you as part of their job to notify you if they are convicted for driving under the influence of intoxicants or enter into a diversion agreement.
- ⚙️ **Pets.** As you know, things happen in the workplace that you think you wouldn’t have to tell people not to do. Employees, however, keep proving us wrong. One of those is pets in the workplace. In the last year, several employers have had problems with employees that thought they should be able to bring their pets to work. Accordingly, the 2006 Handbook has a new *Pets* policy prohibiting pets. If you would like to adopt a policy that allows for pets at work, we can prepare an alternate provision for you.
- ⚙️ **Text Messaging.** Some employees have had a hard time understanding that a policy stating that they cannot use their personal cell phones during working hours also prohibits use of their phone’s text messaging features. The *Pagers, Cellular Telephones & Camera Phones* provision was revised to make clear it also applies to text messaging.
- ⚙️ **Laptop Computers & Handheld Devices.** If you provide an employee with a laptop computer or a handheld device such as a PDA or Blackberry, there are certain ground rules you should establish. These rules are addressed in the new *Laptop Computers & Handheld Devices* provision.
- ⚙️ **Instant Messaging.** Instant messaging over the Internet (different than text messaging by cellular telephone) has proven to be a huge issue for a number of employers. You don’t want employees to use your computers to “chat” with friends when they should be working. We prepared two alternate *Instant Messaging* policies for your consideration. One states that instant messaging can be used for the business of your organization but not for personal business. The alternate policy totally bans instant messaging. Please let us know which policy you prefer.

- ⚙️ **Web Logs.** Another Internet communications method that can distract your employees when they should be working are “Web Logs” or “Blogs” for short. We added a new provision prohibiting employees from posting entries or comments to Blogs that do not relate to your business.
- ⚙️ **Virus Protection.** Computer viruses continue to be a problem. Not only is there a risk of viruses when programs and files are downloaded from the Internet but attachments to emails can often launch viruses. Substantial revisions were made to the *Virus Protection* policy.
- ⚙️ **Internet Usage Monitoring.** A provision was added warning employees that you may have access to a log of their activities using your Internet account, including a transcript of instant messages sent and received.
- ⚙️ **Workplace Monitoring.** More and more employers are installing video surveillance cameras to protect their facilities and to control theft. A new provision was added stating that you have or may install video surveillance equipment. If you use video equipment, this provision is a must. If you don’t currently use video equipment, but would like to maintain this option, this new policy is a good idea.
- ⚙️ **Incident Report Form.** A new form for reporting workplace incidents has been added.
- ⚙️ **At-Will Agreement.** It would be nice to get separate “At-Will Employment Agreements” from each of your employees so that you have certain rights and protections in the event an employee brings a frivolous suit against you. For most employers, having existing employees sign a new agreement would be too disruptive. Instead, some key protections that can benefit you are added at the end of a traditional handbook receipt in a separate *At-Will Agreement*. Provisions authorizing payroll deductions (be careful with this) requiring that disputes be resolved by arbitration rather than litigation, providing for prevailing party attorney fees (currently employees can recover their attorney fees from you but if you win you cannot recover your attorney fees), prohibiting use of confidential information, prohibiting solicitation of your customers and limiting the time for employee lawsuits to six months were added. A provision was also included covering the situation where an employee’s authorization to legally work in the United States expires and is not renewed.

2007 Revisions

For the 2007 Handbook, we totally rewrote the handbook. With the rewrite, the handbook is now written at an 8th grade reading level. Improved readability means improved enforceability in the event of a claim by an employee. In addition, we reduced the length of the handbook by 11 pages. The rewritten handbook along with the *At-Will Agreement* we previously added to the Handbook Receipt result in unprecedented protection for you as an employer.

- ⚙️ **Handbook Rewrite.** We totally rewrote the handbook so that it is now written at an 8th grade reading level.
- ⚙️ **Improved Enforceability.** Some cases are beginning to be decided where judges are ruling that if an employee cannot understand a document, the provisions in the document do not apply to that employee. By lowering the reading level, the enforceability of the Handbook should be enhanced.
- ⚙️ **Shorter.** As part of the extensive rewire, the Handbook is now 11 pages shorter.

2008 Revisions

On January 28, 2008, a new form of employment leave, *Military Family Leave*, went into effect. Even though the Secretary of Labor has not yet adopted rules implementing this statute, you are required to follow it. We drafted a temporary policy for this new law and added it to the

handbook. We also added the new employment poster required by this law and made changes integrating the separate electronic communications policy.

- ⚙ **Military Family Leave.** January 28, 2008, a law granting a new type of employment leave, *Military Family Leave* went into effect. We drafted a policy for employers. This policy should work until the Secretary of Labor adopts new rules.
- ⚙ **Electronic Tools.** References to a separate electronic communications and electronic tools policy were made throughout the Handbook.
- ⚙ **Military Leave Poster.** With the new *Military Family Leave* policy, came a new poster employers are required to display. This poster has been added to the Handbook as well.