



**Terms and Conditions of Employment:**

The handbook should summarize terms and conditions in key areas of employment. Typical provisions would address such things as pay and benefits, work hours, attendance and time off, technology and social media, standards of conduct, ethics, performance expectations, disciplinary and termination guidelines, confidentiality, media and public records requests, and safety and injury reporting, as examples.

Lengthier policies may need to be maintained outside of the handbook. For example, the organization’s expectations concerning safety and how to report a workplace injury should be in the handbook. However, because of the nature and extent of safety protocols, rules, and personal protective equipment applicable to a municipality’s different departments, a best practice is to have a separate comprehensive safety handbook to include detailed safety-related policies for positions and operations throughout the organization. This may be true for other policies like technology or ethics rules if they are extensive.

**Avoiding Common Pitfalls**

Because of the legal nature and implications of handbooks, there are certain practices that organizations should and should not adopt to keep the handbook from being used adversely or in an unintended fashion.

- The discipline policy should not be overly rigid, promising a certain progression of steps without reserving needed flexibility to address specific circumstances. Consider the following sample language:

We reserve sole discretion to determine when certain behaviors, conduct, decisions, etc. are inappropriate, even

if they are not expressly prohibited or addressed in this handbook. The consequences for any infraction will depend on all relevant circumstances and may include discipline or termination as we determine appropriate.

The purpose of corrective action is to eliminate inappropriate conduct, violation of policies, improper behavior or performance problems. Corrective action may include, but is not limited to, oral or written warnings, suspensions without pay, work restrictions, job transfers, termination or any other form of discipline, counseling or correction deemed necessary under the circumstances. The specific measures taken will depend upon the nature and severity of the conduct and the surrounding circumstances.

- Eliminate terms like “probationary period,” “permanent,” and “just cause” from the handbook, unless the organization intends to eliminate at-will employment and grant just cause protections. In *Ferraro*, one factor the Supreme Court found relevant to its determination that the employer intended to grant just cause protection was the distinctions the handbook made between “probationary” and “regular” employees. The Court summarized this finding:

“[T]he Hyatt Corporation differentiated between those employees still within a probationary period and those who were not and provided a different process for discharging employees in the different groups. If all employees were “at will” employees, these provisions would not have been necessary.... Clearly, some sort of tenure dichotomy between probationary and regular employees was contemplated in the employment contract.”

When employment is at-will, these terms are unnecessary because the employer is free to end employment at any time and for any reason.

- Do not include policies that will not be enforced. Inconsistent or lack of enforcement can lead to morale problems, denigrate a handbook’s importance, and provide evidence in a disparate treatment lawsuit.
- The handbook must be regularly updated, particularly to account for changes in the law.
- An employment attorney should review the final document and any updates to ensure legal compliance.
- Obtain a signed acknowledgement from staff at initial release and each time the handbook is updated.

**Conclusion**

Handbooks are beneficial only if staff are familiar with their terms. New employees should receive a handbook at hire and its important provisions covered during orientation. Employers should train all employees in the handbook. This is particularly true for supervisors and department heads who must be familiar with the policies they enforce. One person in the organization should have oversight and conduct regular assessments to ensure consistent application and enforcement.

The League has a Sample Handbook available to serve as a starting point for your organization. It is a great tool to get started with an initial handbook or to assess a revision of your current one. You can get a copy on the League’s website: <https://lwm-info.org/1561/Human-Resources-Matter>

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1. *Brockmeyer v. Dun & Bradstreet*, 113 Wis.2d 561, 335 N.W.2d 834 (WI Sup. Ct. 1983)

2. 124 Wis. 2d 154, 368 N.W.2d 666 (Wis. Sup. Ct. 1985)

3. Wis. Stat. §§ 61.65, 62.13.